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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	CR-16-00211 LHK
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	DECEMBER 12, 2017
	)	
VILASINI GANESH AND GREGORY	)	VOLUME 14
BELCHER,	)	
	)	PAGES 1-252
DEFENDANTS.	)	
_____	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF:	UNITED STATES ATTORNEY'S OFFICE
	BY: JEFFREY D. NEDROW
	PATRICK DELAHUNTY
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	SAN JOSE, CALIFORNIA 95113

FOR DEFENDANT	LAW OFFICE OF DANIEL HOROWITZ
GANESH:	BY: DANIEL HOROWITZ
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APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER:	LEE-ANNE SHORTRIDGE, CSR, CRR
	CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

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APPEARANCES (CONTINUED)

FOR DEFENDANT  
BELCHER:

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BY: NAOMI CHUNG  
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ALSO PRESENT:

NINA BURNEY-WILLIAMS  
BRYAN TAYLOR

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GOVERNMENT'S

**ANNA GLEZER**

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SAN JOSE, CALIFORNIA DECEMBER 12, 2017

P R O C E E D I N G S

(JURY OUT AT 8:40 A.M.)

THE CLERK: ARE WE READY FOR THE JURORS?

THE COURT: YES, GO AHEAD AND BRING THEM IN AND HAVE  
DR. GLEZER TAKE THE STAND, PLEASE.

(JURY IN AT 8:40 A.M.)

THE COURT: GOOD MORNING. WELCOME BACK. PLEASE TAKE  
A SEAT.

PLEASE GO AHEAD WITH YOUR CROSS-EXAMINATION.

MR. HICKEY: THANK YOU, YOUR HONOR.

**(GOVERNMENT'S WITNESS, ANNA GLEZER, WAS PREVIOUSLY SWORN.)**

**CROSS-EXAMINATION (RESUMED)**

BY MR. HICKEY:

Q. GOOD MORNING, DR. GLEZER.

A. GOOD MORNING.

Q. SO WHEN WE LEFT OFF YESTERDAY, WE WERE TALKING ABOUT  
EXECUTIVE DYSFUNCTION PROBLEMS, PEOPLE WHO HAVE SERIOUS  
PROBLEMS WITH EXECUTIVE FUNCTION.

DO YOU REMEMBER TALKING ABOUT THAT A LITTLE BIT?

A. YES.

Q. AND WE WENT OVER SORT OF SOME OF THE THINGS THAT THE  
EXECUTIVE FUNCTION DOES IN TERMS OF YOUR THINKING AND HOW  
DEFICITS IN THAT ABILITY WOULD SORT OF AFFECT SOMEBODY AND WHAT  
YOU WOULD EXPECT TO SEE?

1 A. YES.

2 Q. SO WE TALKED ABOUT, LIKE, PLANNING AND ORGANIZATION AND  
3 SORT OF SOCIAL FUNCTIONS AND HOW PEOPLE WITH PROBLEMS WITH  
4 THEIR EXECUTIVE FUNCTION WOULD BE MESSY AND DISORGANIZED AND  
5 WOULD STRUGGLE SOCIALLY; RIGHT?

6 A. YES.

7 Q. OKAY. SO JUST SORT OF CONTINUING ON THAT, THE EXECUTIVE  
8 FUNCTIONS OF THE BRAIN ALSO HAVE A ROLE IN, IN EMOTIONAL AND  
9 BEHAVIORAL INHIBITIONS; RIGHT?

10 A. YES.

11 Q. SO, YOU KNOW, WE DON'T ALWAYS JUST SORT OF ACT OUT  
12 WHATEVER OUR EMOTIONS ARE, WE SORT OF LEARN THAT THERE'S NORMAL  
13 AND APPROPRIATE SOCIAL WAYS OF EXPRESSING YOURSELF AND BEHAVING  
14 IN SOCIAL CONTEXTS; RIGHT?

15 A. YES.

16 Q. AND SOMEONE WITH SEVERE EXECUTIVE FUNCTION PROBLEMS WOULD  
17 ACT IN A WAY THAT IS SOCIALLY AND CONTEXTUALLY INAPPROPRIATE;  
18 RIGHT?

19 A. POTENTIALLY, YES.

20 Q. AND YOU WOULD EXPECT SOMEONE WITH SERIOUS EXECUTIVE  
21 FUNCTION PROBLEMS TO HAVE DISINHIBITED BEHAVIOR; RIGHT?

22 A. YES.

23 Q. AND SO THAT WOULD MEAN, FOR EXAMPLE, HAVING POTENTIALLY  
24 MAJOR OUTBURSTS AT TIMES AND PLACES THAT ARE JUST NOT SOCIALLY  
25 APPROPRIATE; RIGHT?

1 A. YES.

2 Q. SO, FOR EXAMPLE, YELLING OR SCREAMING AT EMPLOYEES IN THE  
3 OFFICE IN FRONT OF PATIENTS WOULD BE SOMETHING THAT WOULD BE  
4 CONSISTENT WITH AN EXECUTIVE FUNCTION DISORDER?

5 A. IT WOULD BE CONSISTENT WITH SOMEONE WHO MIGHT HAVE  
6 PROBLEMS WITH EXECUTIVE FUNCTION SKILLS.

7 Q. AND SAME THING WITH, LIKE, SCREAMING AT HER HUSBAND IN A  
8 MEDICAL OFFICE WITH PATIENTS AROUND. THAT WOULD BE, AGAIN,  
9 JUST SOCIALLY INAPPROPRIATE, SORT OF CONSISTENT WITH EXECUTIVE  
10 FUNCTION PROBLEMS?

11 A. IT WOULD BE SOCIALLY INAPPROPRIATE, AND ONE EXPLANATION IS  
12 EXECUTIVE FUNCTION PROBLEMS.

13 Q. AND PEOPLE WITH EXECUTIVE -- BECAUSE OF THESE SORT OF  
14 SOCIAL AND EMOTIONAL SHORTCOMINGS, YOU WOULD EXPECT SOMEBODY  
15 WHO -- IT WOULD NOT BE FUN TO WORK FOR SOMEBODY WHO REAL  
16 EXECUTIVE FUNCTION PROBLEMS?

17 MR. DELAHUNTY: CALLS FOR SPECULATION, BEYOND THE  
18 SCOPE OF THE EXPERTISE.

19 THE COURT: SUSTAINED.

20 BY MR. HICKEY:

21 Q. NOW, THE ESSENCE OF THE DIAGNOSIS, OR A KEY COMPONENT OF  
22 THE DIAGNOSIS -- OR I SHOULD SAY OF THE TEST RESULTS OF  
23 DR. FRIEDMAN AND THE DIAGNOSIS OF DR. LEVINSON IS THAT  
24 DR. GANESH CAN'T ACCOMMODATE -- CAN'T SHIFT HER THINKING IN  
25 RESPONSE TO NEW FACTS; RIGHT?

1 A. THAT WAS WHAT WAS NOTED BY DR. FRIEDMAN.

2 Q. AND THAT'S CONSISTENT WITH EXECUTIVE FUNCTION PROBLEMS;  
3 RIGHT?

4 A. YES.

5 Q. AND SOMEBODY WHO CAN'T SHIFT THEIR THINKING TO ACCOMMODATE  
6 NEW FACTS YOU WOULD EXPECT WOULD ENGAGE IN THE SAME BEHAVIOR  
7 OVER AND OVER, EVEN WHEN IT'S NOT EFFECTIVE OR GETTING THE  
8 DESIRED RESULT; RIGHT?

9 MR. DELAHUNTY: ASKED AND ANSWERED.

10 THE COURT: SUSTAINED.

11 BY MR. HICKEY:

12 Q. SO, FOR EXAMPLE, SUING EVERYONE THAT SHE HAS A DISPUTE  
13 WITH, REGARDLESS OF WHETHER THESE LAWSUITS ARE SUCCESSFUL, IS  
14 SOMETHING THAT'S CONSISTENT WITH AN EXECUTIVE FUNCTION  
15 DISORDER?

16 A. IT COULD HAVE MULTIPLE EXPLANATIONS, BUT THAT IS ONE.

17 Q. AND, FOR EXAMPLE, BILLING THE SAME CPT CODE OVER AND OVER  
18 AND OVER YEARS AFTER SHE STOPPED RECEIVING PAYMENT WOULD ALSO  
19 BE CONSISTENT WITH AN EXECUTIVE FUNCTION DISORDER?

20 MR. DELAHUNTY: OBJECTION. I THINK THAT DOES CROSS  
21 THE LINE.

22 THE COURT: IT DOES. IT DOES.

23 SUSTAINED.

24 MR. HICKEY: WITHDRAWN.

25 THE COURT: FOLLOW MY ORDERS, PLEASE.

1 BY MR. HICKEY:

2 Q. NOW, DR. GLEZER, DO YOU -- WOULD YOU AGREE THAT DR. GANESH  
3 IS MENTALLY ILL?

4 A. YES.

5 Q. AND DO YOU HAVE A SPECIFIC DISAGREEMENT AS TO THE FINDINGS  
6 OF DR. FRIEDMAN OR THE ORDER OF -- EXCUSE ME -- OR THE  
7 DIAGNOSIS OF DR. LEVINSON?

8 MR. DELAHUNTY: ASKED AND ANSWERED.

9 BY MR. HICKEY:

10 Q. DO YOU SPECIFICALLY DISAGREE WITH ANY OF THEIR FINDINGS?

11 THE COURT: SUSTAINED.

12 MR. HICKEY: OKAY.

13 Q. IS YOUR OPINION SIMPLY THAT YOU DON'T HAVE SUFFICIENT  
14 INFORMATION TO AGREE OR DISAGREE WITH THEIR CONCLUSIONS? IS  
15 THAT FAIR TO SAY?

16 MR. DELAHUNTY: ASKED AND ANSWERED.

17 THE COURT: OVERRULED.

18 GO AHEAD. YOU MAY ANSWER THIS QUESTION.

19 THE WITNESS: ALMOST. I THINK THAT THERE IS -- THERE  
20 EXISTS INSUFFICIENT INFORMATION TO MAKE A MORE SPECIFIC  
21 DIAGNOSIS, AND THAT IS MY DISAGREEMENT SPECIFICALLY WITH THE  
22 DIAGNOSIS OF BIPOLAR ILLNESS VERSUS THE GENERAL DIAGNOSIS OF  
23 MOOD DISORDER.

24 I THINK I AGREED WITH THE DIAGNOSIS OF PANIC DISORDER, SO  
25 THAT -- WITH THAT PARTICULAR PIECE, WE'RE IN CONCURRENCE.



1 BY MR. HICKEY:

2 Q. AND DO YOU AGREE THAT DR. GANESH EXHIBITS ALL OF THE  
3 SYMPTOMS OF BIPOLAR DISORDER?

4 MR. DELAHUNTY: ASKED AND ANSWERED. THIS HAS BEEN  
5 COVERED.

6 THE COURT: OVERRULED.

7 YOU MAY ANSWER.

8 THE WITNESS: I THINK SHE EXHIBITS SOME SYMPTOMS THAT  
9 COULD BE EXPLAINED BY A DIAGNOSIS OF BIPOLAR DISORDER, BUT ALSO  
10 COULD BE EXPLAINED BY A NUMBER OF OTHER FACTORS, WHICH IS WHY  
11 IT'S HARD FOR ME TO PUT THAT LABEL ON HER.

12 BY MR. HICKEY:

13 Q. AND WOULD YOU AGREE THAT A PSYCHIATRIST WHO HAS HAD, YOU  
14 KNOW, A LONGER PERIOD TO OBSERVE AND ENGAGE WITH THE INDIVIDUAL  
15 WOULD BE IN A BETTER POSITION TO MAKE THAT DIAGNOSIS?

16 MR. DELAHUNTY: THIS HAS BEEN ASKED AND ANSWERED.

17 THE COURT: SUSTAINED.

18 MR. HICKEY: NO FURTHER QUESTIONS.

19 THE COURT: ALL RIGHT.

20 OKAY. ANY REDIRECT? GO AHEAD, PLEASE.

21 MR. DELAHUNTY: YES, YOUR HONOR. THANK YOU.

22 **REDIRECT EXAMINATION**

23 BY MR. DELAHUNTY:

24 Q. DR. GLEZER, I'LL TRY TO BE QUICK.

25 YOU WERE ASKED SOME QUESTIONS YESTERDAY ABOUT WHETHER OR

1 NOT YOU HAD INVESTIGATED WHETHER OR NOT DR. GANESH HAD A  
2 HISTORY OF USING, I'M GOING TO MISPRONOUNCE IT AGAIN,  
3 PHENTERMINE.

4 A. YES.

5 Q. IN FACT, YOU HAVE REVIEWED DR. LEVINSON'S MEDICAL RECORDS  
6 FOR DR. GANESH; CORRECT?

7 A. YES.

8 Q. IN FACT, THOSE RECORDS -- WELL, LET ME ASK YOU FIRST.  
9 I'LL COME BACK TO THAT.

10 IF A MEDICAL RECORD SAYS -- HAVE YOU EVER SEEN A MEDICAL  
11 RECORD THAT LISTS A TREATMENT GOAL?

12 A. YES.

13 Q. LET'S SAY THE TREATMENT GOAL WAS TO HAVE THE PATIENT STOP  
14 SMOKING AT SOME POINT.

15 A. OKAY.

16 Q. NOW, IN THAT INSTANCE, WOULD IT BE REASONABLE TO CONCLUDE  
17 IF THE NOTE SAYS, "TREATMENT GOAL: PATIENT SHOULD STOP  
18 SMOKING," IS IT REASONABLE TO CONCLUDE THAT THE PATIENT IS  
19 SMOKING AT THAT TIME?

20 A. YES.

21 Q. AND ISN'T IT TRUE THAT DR. LEVINSON'S MEDICAL RECORDS FOR  
22 MONTHS, VISIT AFTER VISIT, SAY "TREATMENT GOAL: STOP USING  
23 PHENTERMINE"?

24 A. YES.

25 Q. AND I CAN SHOW YOU -- AND ISN'T IT TRUE THAT HIS PATIENT

1 RECORDS FOR FEBRUARY 3RD, 2017, INCLUDE A TREATMENT GOAL OF  
2 TERMINATION OF PHENTERMINE USE; CORRECT?

3 A. YES.

4 Q. AND DON'T HIS MEDICAL RECORDS FROM MARCH 17TH, ABOUT ONE  
5 MONTH LATER, SAY TREATMENT GOAL -- ACTUALLY, IT SAYS,  
6 IMPRESSION, COMPLICATED -- ATYPICAL BIPOLAR DISORDER IS  
7 DESCRIBED ABOVE WITH ANXIETY AND PANIC ATTACKS COMPLICATED IN  
8 THE PAST WITH PHENTERMINE USE?

9 A. YES.

10 Q. THAT'S DR. LEVINSON; RIGHT?

11 A. YES.

12 Q. AND, IN FACT, HE MADE THE SAME CONCLUSION ON A VISIT ON  
13 MARCH 31ST, TWO WEEKS LATER, THE EXACT SAME, ATYPICAL BIPOLAR  
14 DISORDER WITH ANXIETY AND PANIC ATTACK, COMPLICATED IN THE PAST  
15 WITH PHENTERMINE USE?

16 A. YES.

17 Q. AND HE HAD A TREATMENT GOAL THAT DAY AS WELL OF  
18 TERMINATION OF PHENTERMINE USE?

19 A. YES.

20 Q. AND A MONTH LATER, ON AN ENCOUNTER DATE OF -- THIS IS  
21 ACTUALLY TWO WEEKS LATER, APRIL 12TH, HE AGAIN SAID "TREATMENT  
22 GOAL: TERMINATION OF PHENTERMINE USE."

23 A. YES.

24 Q. AND AGAIN ON A TREATMENT DATE OF MAY 10TH -- THIS IS ABOUT  
25 A MONTH LATER -- "TREATMENT GOAL: TERMINATION OF PHENTERMINE

1 USE"?

2 A. YES.

3 Q. AGAIN, THIS IS A TREATMENT DATE OF TWO WEEKS LATER,  
4 MAY 19TH, "TREATMENT GOAL: TERMINATION OF PHENTERMINE USE"?

5 A. YES.

6 Q. THESE ARE ALL DR. LEVINSON'S CONCLUSIONS, AREN'T THEY?

7 A. YES.

8 Q. TREATMENT DATE AGAIN -- THIS IS A TREATMENT OF JUNE 16TH,  
9 SO WE'RE NOW FOUR MONTHS OF THIS, WHERE ANOTHER TREATMENT GOAL  
10 IS TERMINATION OF PHENTERMINE USE; CORRECT?

11 A. YES.

12 Q. AND YOU SAW DR. GANESH IN JUNE; CORRECT?

13 A. YES.

14 Q. SO YOU HAD AMPLE BASIS TO CONCLUDE THAT THERE WAS A  
15 HISTORY OF PHENTERMINE USE BY DR. GANESH; CORRECT?

16 A. YES.

17 Q. AND IN THAT SENSE, YOU AGREED WITH DR. LEVINSON, DIDN'T  
18 YOU?

19 A. YES.

20 Q. AND YOU HAVE EXPLAINED THAT THE SYMPTOMS OF A PERSON USING  
21 PHENTERMINE ARE CONSISTENT WITH HYPOMANIA; CORRECT?

22 A. YES, THEY CAN BE.

23 Q. NOW, YOU GOT ASKED SOME QUESTIONS BY MR. HICKEY AS TO  
24 WHETHER OR NOT YOU INTERVIEWED MEMBERS OF DR. GANESH'S FAMILY.

25 DO YOU REMEMBER THAT?

1 A. YES.

2 Q. BUT YOU DID, IN FACT, LOOK AT STATEMENTS SUBMITTED TO YOU  
3 THAT PURPORTED TO BE THE STATEMENTS OF THESE FAMILY MEMBERS,  
4 THAT IS, THEY WERE GIVEN TO ME FROM MR. HOROWITZ AS STATEMENTS  
5 MADE BY THESE FAMILY MEMBERS ABOUT DR. GANESH?

6 A. YES.

7 Q. IN FACT, THEY WERE SPECIFICALLY ABOUT THEIR IMPRESSIONS OF  
8 DR. GANESH'S MENTAL HEALTH; CORRECT?

9 A. YES.

10 Q. AND YOU REVIEWED ALL THOSE, DIDN'T YOU?

11 A. YES.

12 Q. SO YOU DID GATHER INFORMATION FROM FAMILY MEMBERS ABOUT  
13 DR. GANESH IN FORMING YOUR CONCLUSIONS, DIDN'T YOU?

14 A. YES. I JUST DIDN'T SPEAK WITH THEM DIRECTLY.

15 Q. YOU GOT ASKED SOME QUESTIONS ABOUT, YOU KNOW, THESE  
16 LAWSUITS, DOESN'T THAT INDICATE A DISORDER; CORRECT?

17 A. YES.

18 Q. NOW, NOT EVERY PERSON THAT FILES A LAWSUIT IS MENTALLY  
19 ILL, ARE THEY?

20 A. NO.

21 Q. AND YOU DON'T KNOW, AS A MEDICAL DOCTOR, WHETHER OR NOT  
22 THOSE LAWSUITS WERE RIGHTEOUS OR EFFICIENT OR EFFECTIVE OR  
23 PROPER, DO YOU?

24 A. NO.

25 Q. THAT'S NOT YOUR JOB, IS IT?

1 A. NO.

2 Q. IS THAT -- AND DID YOU -- YOU READ DR. LEVINSON'S AND  
3 DR. FRIEDMAN'S REPORTS, DIDN'T YOU?

4 A. YES.

5 Q. AND THEY DIDN'T MAKE ANY ANALYSIS OF WHETHER THOSE  
6 LAWSUITS WERE EFFICIENT OR PROPER OR RIGHTEOUS, DID THEY?

7 A. NO.

8 Q. IN FACT, DR. GANESH DIDN'T EVEN TELL EITHER ONE OF THOSE  
9 TWO DOCTORS ABOUT THOSE LAWSUITS?

10 A. CORRECT.

11 Q. SHE WITHHELD THAT FROM THEM?

12 A. BASED ON WHAT I READ.

13 Q. AND JUST AS SHE CHOSE TO WITHHOLD FROM YOU HER USE OF  
14 PHENTERMINE?

15 A. YES.

16 Q. AND ISN'T THAT CAREFUL WITHHOLDING OF RELEVANT INFORMATION  
17 CONSISTENT WITH SOMEBODY WHO'S MALINGERING?

18 A. IT CAN BE, YES.

19 Q. DOESN'T IT INDICATE THAT DR. GANESH KNEW WHAT WAS GOING ON  
20 IN THESE EVALUATIONS AND WAS SELECTIVE IN WHAT SHE PRESENTED?

21 A. YES.

22 Q. NOW, YOU HAVE INDICATED, AS I UNDERSTAND IT, THAT YOU'RE  
23 AWARE OF DR. FRIEDMAN'S TEST RESULTS, AND THAT'S BEEN COVERED.

24 A. YES.

25 Q. BUT HERE'S WHAT I WANT TO ASK: IF A PERSON WAS TO REALLY

1 BELIEVE THAT DR. GANESH HAD THE ABILITIES, DAY-TO-DAY, AS  
2 REFLECTED BY DR. LEVINSON'S TEST RESULTS, IF THAT WAS TAKEN TO  
3 BE TRUE, AND IF IT WAS TAKEN TO BE TRUE THAT THAT SAME PERSON  
4 WAS SEEING PATIENTS DAY-TO-DAY, WOULDN'T IT CAUSE SOME CONCERN  
5 BY THE PERSON WHO ASSUMES THOSE TEST RESULTS TO BE TRUE, THAT  
6 MAYBE THAT PATIENT SHOULDN'T BE SEEING AND TREATING OTHER  
7 PATIENTS?

8 A. YES, GIVEN THE SIGNIFICANT IMPAIRMENT THAT WAS EVIDENT IN  
9 THE TESTING RESULTS, THAT WOULD BE A CONCERN.

10 I THINK, YOU KNOW, ONE OF THE MAIN FOCUS OF THE  
11 CONVERSATION WAS SPECIFICALLY ON THE TEST RESULTS OF THE, YOU  
12 KNOW, THE WISCONSIN CARD SORT TEST, FOR EXAMPLE, WHICH MEASURES  
13 THE EXECUTIVE FUNCTION SKILLS, AND I THINK THE IMPORTANT THING  
14 TO RECOGNIZE IS, YOU KNOW, THOSE -- THAT KIND OF TESTING TOOK  
15 PLACE ON ONE SPECIFIC DAY AND THERE'S A REALLY, REALLY BROAD  
16 RANGE OF WHAT EXECUTIVE FUNCTION SKILLS AND EXECUTIVE FUNCTION  
17 SKILLS DYSFUNCTION LOOKS LIKE.

18 AND SO, YOU KNOW, ON THE SEVERE SIDE OF THINGS, YOU HAVE  
19 FOLKS THAT WOULDN'T EVEN BE ABLE TO COMPLETE THE WISCONSIN CARD  
20 SORT TEST WHO ARE SO IMPAIRED THAT, BECAUSE OF PSYCHOSIS, THEY  
21 EAT WITH THEIR HANDS BECAUSE THEY CAN'T MANAGE A KNIFE OR FORK,  
22 OR BECAUSE OF DEMENTIA, THEY CAN'T FIND THEIR OWN BATHROOM.  
23 THOSE ARE FOLKS WITH REALLY SEVERE EXECUTIVE FUNCTION SKILL  
24 DISTURBANCE, AND THOSE ARE FOLKS THAT CERTAINLY WOULDN'T BE  
25 ABLE TO PRACTICE MEDICINE, HOWEVER LOW OF A BAR, OR WOULDN'T BE

1 ABLE TO EVEN COMPLETE THAT KIND OF TESTING.

2 SO JUST TO BE ABLE TO COMPLETE THAT TESTING MEANS THAT THE  
3 PERSON HAS SOME EXECUTIVE FUNCTION SKILLS AND, YES, THEY COULD  
4 BE IMPAIRED BY MENTAL ILLNESS BECAUSE ANXIETY, DEPRESSION,  
5 ADHD, ALL OF THOSE THINGS CAN MAKE, YOU KNOW, EXECUTIVE  
6 FUNCTION SKILLS MORE CHALLENGING. THAT'S WHY THE COLLEGE  
7 STUDENT WITH ADHD GETS MORE TIME TO COMPLETE HIS EXAM, FOR  
8 EXAMPLE.

9 AND I THINK ANY ONE OF US CAN HAVE, ON CERTAIN DAYS,  
10 EXECUTIVE FUNCTION SKILL PROBLEMS. IF YOU'RE SLEEP DEPRIVED  
11 FOR A COUPLE OF NIGHTS AND HAVE A BAD HEAD COLD, THEN YOU MAYBE  
12 MISPLACE YOUR KEYS, FORGET YOUR DRY-CLEANING AND WEAR  
13 MISMATCHED SOCKS. ALL OF THOSE KINDS OF THINGS ARE EXECUTIVE  
14 FUNCTION SKILL DISTURBANCES, BUT IT'S ALL A MATTER OF RANGE.

15 AND SO THE TESTING WAS COMPLETED AND DEMONSTRATED  
16 IMPAIRMENT, BUT THAT DOESN'T NECESSARILY MEAN THAT ON THAT  
17 SPECTRUM, THAT PERSON IS SEVERE.

18 Q. AND ALL THAT YOU KNOW FOR SURE IS THAT DR. GANESH  
19 PRESENTED CERTAIN SYMPTOMS IN THE SUMMER OF 2017?

20 A. YES.

21 Q. AND ALL THAT DR. FRIEDMAN KNOWS FOR SURE IS HOW SHE  
22 PRESENTED IN THE SUMMER OF 2017; CORRECT?

23 A. YES.

24 Q. AND ALL DR. LEVINSON KNOWS FOR SURE IS HOW DR. GANESH  
25 PRESENTED FROM THE SUMMER OF '16 TO THE SUMMER OF '17; CORRECT?



1 A. YES.

2 Q. BUT THERE ARE NO MEDICAL RECORDS, OR MEDICAL CONCLUSIONS,  
3 APART FROM AN OB-GYN'S, A COUPLE OF THEIR VISITS, AS TO THE  
4 MENTAL HEALTH OF DR. GANESH FROM '08 TO 2015; CORRECT?

5 A. CORRECT.

6 Q. AND THAT NEITHER YOU NOR DR. FRIEDMAN NOR DR. LEVINSON CAN  
7 SAY WITH ANY CERTAINTY WHAT DR. GANESH WAS LIKE FROM '08 TO  
8 '15?

9 A. CORRECT.

10 Q. ALL THAT THE THREE OF YOU KNOW IS WHAT SHE WAS LIKE FROM  
11 2016 TO 2017?

12 A. YES.

13 Q. AND IN THAT AREA, THERE'S SOME AGREEMENTS AND  
14 DISAGREEMENTS?

15 A. YES.

16 Q. AND, IN FACT, WHEN THESE TESTS WERE DONE IN THE SUMMER OF  
17 2017, DR. GANESH WAS JUST UNDER A LOT OF STRESS, PARTLY, OR  
18 MAYBE MAINLY, BECAUSE OF THIS LAWSUIT AND THE IMPENDING TRIAL?

19 A. YES.

20 Q. AND, IN FACT, DR. LEVINSON HAS BEEN SUCCESSFUL IN  
21 ALLEVIATING SOME OF THESE SYMPTOMS WITH HIS TREATMENT, AT LEAST  
22 ACCORDING TO HIS MEDICAL RECORDS?

23 A. YES.

24 Q. DOES THAT SUGGEST TO YOU THAT THE PROBLEM IS A TEMPORARY  
25 ONE THAT IS JUST REALLY BROUGHT ON BY THE RECENT CIRCUMSTANCES?

1 A. IT SUGGESTS THAT IT'S A TREATABLE ONE AND THAT DR. GANESH  
2 CAN FEEL BETTER.

3 Q. NOW, YOU ALSO GOT -- I'M ALMOST DONE HERE -- YOU GOT ASKED  
4 A QUESTION BY MR. HICKEY THAT WAS, YOU KNOW, SHE -- DR. GANESH  
5 ONLY TESTED REALLY LOW ON THE WISCONSIN SORTING TEST.

6 DO YOU REMEMBER THAT?

7 A. YES.

8 Q. THAT'S NOT TRUE. SHE TESTED LOW ON ALMOST EVERY TEST  
9 ADMINISTERED BY DR. FRIEDMAN; CORRECT?

10 A. SHE SCORED BELOW AVERAGE ON MOST OF THE TESTING.

11 Q. ALL BUT ONE SHE WAS BELOW THE 50TH PERCENTILE; CORRECT?

12 A. YES.

13 Q. ALL BUT THREE SHE WAS BELOW THE 20TH PERCENTILE; CORRECT?

14 A. YES.

15 Q. THE MAJORITY SHE WAS UNDER THE 15TH PERCENTILE; CORRECT?

16 A. YES.

17 Q. YOU WEREN'T ASKED ABOUT THOSE OTHER SCORES BY MR. HICKEY,  
18 THOUGH, WERE YOU?

19 A. NO.

20 Q. NOW, LAST SET OF QUESTIONS HERE. IF SOMEBODY IS MESSY,  
21 DOES THAT NECESSARILY SHOW THAT THEY HAVE A MENTAL ILLNESS?

22 A. NO.

23 Q. IS SOMEBODY IS ARGUMENTATIVE, DOES THAT INDICATE THEY HAVE  
24 A MENTAL ILLNESS?

25 A. NO.

1 MR. DELAHUNTY: MAY I HAVE A MOMENT, YOUR HONOR?

2 THE COURT: YES.

3 (DISCUSSION OFF THE RECORD BETWEEN GOVERNMENT COUNSEL.)

4 MR. DELAHUNTY: NO ADDITIONAL QUESTIONS.

5 THANK YOU, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 ANY RECROSS?

8 MR. HOROWITZ: YES. THANK YOU, YOUR HONOR.

9 THE COURT: GO AHEAD, PLEASE, MR. HOROWITZ.

10 **RECROSS-EXAMINATION**

11 BY MR. HOROWITZ:

12 Q. DOCTOR, DID YOU PREPARE A RECORD REVIEW OF DR. GANESH'S  
13 FILES AT ALL?

14 A. I REVIEWED THE MEDICAL RECORDS OF DR. LEVINSON, IF THAT'S  
15 WHAT YOU MEAN.

16 Q. DID YOU WRITE ANY REPORT OR SUMMARY OF THE RECORD REVIEW?

17 A. JUST WHAT I PUT IN -- BRIEF SUMMARIES THAT I PUT IN MY  
18 REPORTS.

19 Q. OKAY. LET ME SHOW YOU A DOCUMENT JUST TO SEE IF YOU'VE  
20 SEEN IT. I'M NOT GOING TO MARK IT YET.

21 (DISCUSSION OFF THE RECORD BETWEEN COUNSEL.)

22 MR. HOROWITZ: ALL RIGHT.

23 Q. COUNSEL SAYS YOU'VE NOT SEEN THIS DOCUMENT, SO I'M NOT  
24 GOING TO SHOW IT TO YOU.

25 A. OKAY.

1 Q. LET'S LOOK AT DR. LEVINSON'S NOTES THAT YOU DID REVIEW.

2 A. OKAY.

3 Q. BUT BEFORE I DO THAT, LET ME ASK YOU A QUESTION: WHAT IS  
4 A TREATMENT PLAN IN THE AREA OF PSYCHIATRY?

5 A. A TREATMENT PLAN ARE THE, THE TARGET GOALS FOR THE  
6 TREATMENT FOR THAT INDIVIDUAL.

7 Q. OKAY. NOW, DR. LEVINSON'S NOTES CONTAINED DETAILED  
8 PROGRESS NOTES, AS WELL AS HISTORY AND OTHER NOTATIONS; IS THAT  
9 RIGHT?

10 A. YES.

11 Q. AND THE PROSECUTOR, MR. DELAHUNTY FOR THE GOVERNMENT,  
12 BROUGHT UP THE MARCH 31ST, 2017 NOTE THAT YOU REVIEWED THAT  
13 INDICATED, UNDER THE TREATMENT PLAN, OR TREATMENT GOALS,  
14 TERMINATION OF PHENTERMINE USE; RIGHT?

15 A. YES.

16 Q. AND HE ALSO INDICATED THAT THERE SHOULD BE ENGAGEMENT IN  
17 AND COMPLIANCE WITH TREATMENT; IS THAT RIGHT?

18 A. THERE SHOULD BE, YES.

19 Q. AND IMPROVED PSYCHOSOCIAL FUNCTIONING; RIGHT?

20 A. THAT'S THE GOAL.

21 Q. AND ENCOURAGE FORMING AND PURSUING REALISTIC GOALS;  
22 CORRECT?

23 A. YES.

24 Q. AND IN THAT NOTE, HE ALSO INDICATED, "THE DISORGANIZATION  
25 OF HER THINKING WAS STRIKING AND RATHER UNUSUAL. IT DID NOT

1 RESEMBLE EITHER THE THOUGHT DISORDER OF SCHIZOPHRENIA OR THE  
2 FLIGHT IDEAS OF MANIA, BUT RATHER, AN INABILITY TO RECOGNIZE  
3 FUTURE CONSEQUENCES."

4 RIGHT?

5 A. THAT IS WHAT HE WROTE, YES.

6 Q. OKAY. AND THAT'S NOT A SIGN OF THE USE OF A MILD  
7 AMPHETAMINE, IS IT?

8 A. NOT NECESSARILY.

9 Q. IN FACT, HE SAID EXECUTIVE FUNCTION PROBLEM POSSIBLY, AND  
10 TO SELECT THE MOST IMPORTANT ISSUES FOR CONSIDERATION, HE  
11 WANTED TO GET PERMISSION TO SPEAK TO THE ATTORNEY, HER MOTHER,  
12 AND BROTHER; CORRECT?

13 A. YES.

14 Q. AND, IN FACT, AMONG HIS RECORDS WAS A THYROID REPORT FROM  
15 A LAB --

16 MR. DELAHUNTY: BEYOND THE SCOPE OF THE RECROSS.

17 MR. HOROWITZ: SHE RELIED ON HIS NOTES. SHE'S  
18 GIVEN --

19 THE COURT: OVERRULED.

20 GO AHEAD, PLEASE.

21 BY MR. HOROWITZ:

22 Q. AND THAT WAS DATED JUST TWO WEEKS EARLIER, 3-13-2017, AND  
23 IT INDICATED AN ABNORMAL TSH LEVEL, 7.135; RIGHT?

24 A. YES.

25 Q. AND WHAT ARE THE EFFECTS OF AN ABNORMALLY HIGH TSH LEVEL?

1 A. SO THE FIRST STEP WOULD BE TO -- IT'S A POTENTIAL SIGN  
2 THAT THE PERSON'S THYROID LEVELS ARE ABNORMAL AND THAT THEY ARE  
3 IN THE REALM OF WHAT IS CALLED HYPOTHYROIDISM. THERE'S USUALLY  
4 SOME CONFIRMATORY LAB STUDIES THAT ARE ALSO DONE.

5 BUT BASICALLY HYPOTHYROIDISM CAN BE ASSOCIATED WITH MOOD  
6 SYMPTOMS THAT ARE ON THE DEPRESSION SIDE OF THINGS.

7 Q. OKAY.

8 A. ALONG WITH OTHER PHYSICAL SIGNS THAT THE PERSON IS OFTEN  
9 COLD OR GAINS WEIGHT, THINGS LIKE THAT.

10 Q. NOW, ON -- IN THE PROGRESS NOTES FROM STANFORD HEALTH CARE  
11 OF DR. LEVINSON THAT YOU REVIEWED, ON 3-31-17 AT 2:00 P.M.  
12 P.M., AT 2:00 P.M., RATHER, AT PAGE 2 HE INDICATES, AGAIN,  
13 UNDER TREATMENT GOALS, TERMINATION OF PHENTERMINE USE.

14 BUT THEN WHEN YOU GO DOWN FURTHER UNDER MEDICAL DECISION  
15 MAKING, IMPRESSION IS "ATYPICAL BIPOLAR DISORDER AS DESCRIBED  
16 ABOVE WITH ANXIETY AND PANIC ATTACKS COMPLICATED IN THE PAST,"  
17 AND THEN THERE'S A PARENTHESSES, "(BUT REPORTEDLY NOT  
18 CURRENTLY)," CLOSED PARENTHESSES, "WITH PHENTERMINE (STIMULANT)  
19 USE."

20 SO SINCE YOU RELIED UPON DR. LEVINSON'S RECORDS TO POSIT  
21 THAT PHENTERMINE WAS A CONFOUNDING FACTOR IN YOUR DIAGNOSIS,  
22 DID YOU ALSO RELY UPON HIS RECORDS WHEN HE INDICATED THAT IT'S  
23 NOT CURRENTLY BEING USED?

24 MR. DELAHUNTY: MISSTATES THE TESTIMONY.

25 THE COURT: OVERRULED.

1           YOU MAY ANSWER.

2           THE WITNESS: YES. I THINK THE MAIN POINT IS THAT  
3 THE PHENTERMINE USE HAS BEEN OFF AND ON AND, THEREFORE, THAT'S  
4 WHY IT'S HARD TO CORRELATE PAST EPISODES OF POTENTIAL HYPOMANIA  
5 WITH WHETHER OR NOT THE STIMULANT WAS ON BOARD OR OFF BOARD AND  
6 THAT'S WHAT COMPLICATES THE PICTURE.

7 BY MR. HOROWITZ:

8 Q. ISN'T THAT A PREJUDICE ON YOUR PART?

9           MR. DELAHUNTY: ARGUMENTATIVE.

10          THE COURT: SUSTAINED.

11 BY MR. HOROWITZ:

12 Q. ISN'T THAT AN UNFAIR, UNSCIENTIFIC BIAS AGAINST  
13 SOMEBODY --

14          MR. DELAHUNTY: ARGUMENTATIVE.

15          MR. HOROWITZ: LET ME FINISH THE QUESTION.

16 Q. -- THAT IS NOT SCIENTIFICALLY BASED ON ACTUAL EVIDENCE?

17          MR. DELAHUNTY: SAME OBJECTION.

18          THE COURT: OVERRULED.

19          YOU MAY ANSWER.

20          THE WITNESS: NO.

21 BY MR. HOROWITZ:

22 Q. SO YOU THINK THAT BECAUSE SOMEBODY WAS PRESCRIBED A  
23 LEGITIMATE WEIGHT LOSS DRUG AND THEN LEARNED FROM HER DOCTOR, A  
24 PSYCHIATRIST, THAT IT MIGHT BE CONFOUNDING HER SYMPTOMS, THAT  
25 YOU THEN SHOULD TREAT HER LIKE AN ADDICT WHO'S GOING TO GO IN

1 REMISSION --

2 MR. DELAHUNTY: ARGUMENTATIVE.

3 BY MR. HOROWITZ:

4 Q. -- AND THEN GO AND NOT TELL ANYBODY? IS THAT WHAT YOU'RE  
5 DOING?

6 THE COURT: OVERRULED. I'LL ALLOW THE QUESTION.

7 GO AHEAD, PLEASE.

8 THE WITNESS: NO. I'M SAYING THAT -- I'M NOT  
9 DIAGNOSING HER WITH A STIMULANT USE DISORDER. I'M NOT SAYING  
10 THAT SHE'S AN ADDICT.

11 I'M SAYING THAT IN THE PAST SHE USED, PRIOR TO MY MEETING  
12 WITH HER, SHE USED PHENTERMINE AND THAT IS A STIMULANT AND CAN  
13 MIMIC A LOT OF THE SYMPTOMS OF HYPOMANIA, WHICH IS WHY IT'S  
14 HARD TO MAKE A MORE SPECIFIC DIAGNOSIS BEYOND MOOD DISORDER.

15 BY MR. HOROWITZ:

16 Q. WAIT A MINUTE. SHE WAS PRESCRIBED IT BY A PHYSICIAN AND  
17 STOPPED USING IT WHEN SHE LEARNED THAT IT COULD EXACERBATE HER  
18 MEDICAL PROBLEM. IS THERE ANYBODY WHO YOU'VE TREATED AS A  
19 PATIENT WHO SOME TIME IN THEIR LIFE DIDN'T TAKE SOME PRESCRIBED  
20 LEGITIMATE PHARMACEUTICAL DRUG THAT COULD HAVE A SIDE EFFECT  
21 THAT COULD AFFECT THEIR MENTAL STATE?

22 A. YES. THAT'S WHY IT COMPLICATES THE PICTURE AND THE  
23 DIAGNOSIS.

24 Q. IF I HAVE KIDNEY STONES AND I'VE TAKEN OPIATES, ARE YOU  
25 WONDERING IF I'M UNDER THE INFLUENCE RIGHT NOW?



1 MR. DELAHUNTY: THE --

2 THE WITNESS: NO. BUT IF IN THE PAST WHEN YOU WERE  
3 TAKING THE OPIATES, YOU EXHIBITED SOME SYMPTOMS OF DEPRESSION,  
4 THEN I WOULD WONDER IF THE OPIATES WERE RESPONSIBLE FOR THAT  
5 DEPRESSION.

6 BY MR. HOROWITZ:

7 Q. IF YOU TAKE VICODIN, YOU'RE GOING TO GET DEPRESSED.  
8 THAT'S A SIDE EFFECT THAT HAPPENS WITH VIRTUALLY EVERYONE,  
9 DOESN'T IT? THAT'S WHY IT'S ADDICTIVE?

10 A. THAT'S THE POINT IS THAT THOSE KINDS OF SIDE EFFECTS CAN  
11 MIMIC THOSE SYMPTOMS.

12 Q. DON'T JUDGE ME AS AN ADDICT. ARE YOU JUDGING ME AS AN  
13 ADDICT BECAUSE I TOOK IT ONCE PRESCRIBED BY MY DOCTOR?

14 MR. DELAHUNTY: ARGUMENTATIVE.

15 THE COURT: OVERRULED.

16 YOU MAY ANSWER THE QUESTION.

17 THE WITNESS: NO.

18 THE COURT: ALL RIGHT. IS THERE ANY FURTHER CROSS,  
19 ANY FURTHER REDIRECT?

20 MR. DELAHUNTY: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. IS THIS WITNESS EXCUSED  
22 SUBJECT TO RECALL OR NOT SUBJECT TO RECALL?

23 MR. HOROWITZ: NOT SUBJECT, YOUR HONOR.

24 MR. DELAHUNTY: NOT SUBJECT.

25 THE COURT: ALL RIGHT. THEN YOU ARE EXCUSED. YOU'VE

1 COMPLETED YOUR TRIAL TESTIMONY. YOU ARE FREE TO LEAVE.

2 THE WITNESS: THANK YOU.

3 THE COURT: ALL RIGHT. ANY OTHER WITNESSES?

4 MR. DELAHUNTY: NO, YOUR HONOR.

5 THE COURT: THEN WE GO TO THE DEFENSE.

6 MR. HOROWITZ, DO YOU HAVE A STIPULATION THAT YOU'D LIKE TO  
7 READ?

8 MR. HOROWITZ: YOUR HONOR, WOULD YOU BE KIND ENOUGH  
9 TO READ IT?

10 THE COURT: I'M HAPPY TO DO SO.

11 ELIZABETH MICHAEL WAS SEEN -- THIS IS A STIPULATION BY THE  
12 PARTIES. THEY'VE AGREED TO THE FOLLOWING:

13 ELIZABETH MICHAEL WAS SEEN AS A PATIENT BY DR. GANESH.  
14 HER MEDICAL FILE FROM DR. GANESH'S OFFICE REFLECTS THE  
15 FOLLOWING TREATMENT DATES: SEPTEMBER 10, 2015; SEPTEMBER 13,  
16 2012; SEPTEMBER 14, 2012; SEPTEMBER 17, 2012; SEPTEMBER 19,  
17 2012; SEPTEMBER 20TH -- I'M WONDERING IF THAT SHOULD BE 2012.  
18 IT SAYS 2013.

19 MR. HOROWITZ: I THINK IT'S ACTUALLY ACCURATE.

20 THE COURT: 2013? OKAY.

21 THEN IT GOES BACK TO SEPTEMBER 21, 2012; OCTOBER 18, 2012;  
22 NOVEMBER 1, 2013; NOVEMBER 6, 2012; NOVEMBER 8, 2012.

23 ALL RIGHT.

24 MR. HOROWITZ: ONE MORE THING, YOUR HONOR. WE AGREED  
25 THAT THAT TOTALS 11 VISITS.

1 THE COURT: THAT'S CORRECT.

2 MR. HOROWITZ: THANK YOU.

3 THE COURT: THERE WERE 11 TREATMENT DATES --

4 MR. HOROWITZ: THANK YOU.

5 THE COURT: -- BETWEEN 2012 AND 2013.

6 ALL RIGHT. DO YOU REST?

7 MR. HOROWITZ: I DO, YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 NO REBUTTAL CASE; CORRECT?

10 MS. CHUNG: CORRECT.

11 THE COURT: ALL RIGHT.

12 THEN, LADIES AND GENTLEMEN, YOU HAVE NOW HEARD ALL OF THE  
13 EVIDENCE IN THE CASE. I NEED TO MEET WITH THE PARTIES JUST  
14 BRIEFLY ON THE JURY INSTRUCTIONS BECAUSE OUR NEXT ITEM OF  
15 BUSINESS WOULD BE TO HAND YOU A COPY OF THE FINAL JURY  
16 INSTRUCTIONS. EVEN THOUGH YOU HAVE A HARD COPY, I'M REQUIRED  
17 TO READ THEM TO YOU.

18 AND THEN AFTER THAT, YOU'LL HEAR CLOSING ARGUMENTS OF THE  
19 PARTIES.

20 ALL RIGHT. THANK YOU FOR YOUR PATIENCE AND YOUR SERVICE.  
21 DO NOT RESEARCH OR DISCUSS THE CASE. WE'LL TRY TO KEEP THIS  
22 VERY BRIEF.

23 (JURY OUT AT 9:10 A.M.)

24 THE COURT: OKAY. THE RECORD SHOULD REFLECT THE  
25 JURORS HAVE LEFT THE COURTROOM. PLEASE TAKE A SEAT.

1 I JUST WANTED TO PUT A COUPLE THINGS ON THE RECORD FOR  
2 YOU.

3 FIRST OF ALL, YESTERDAY WE HAD TALKED ABOUT USING THE 2010  
4 JURY INSTRUCTION FOR MONEY LAUNDERING, WHICH I THINK ALL OF US  
5 PREFER.

6 BUT I LOOKED BACK AND I -- I THINK IT'S BEST FOR US TO USE  
7 THE 2017 VERSION. IF THE NINTH CIRCUIT CHANGES THE MODEL, I  
8 FEEL LIKE WE SHOULD GO WITH THE CURRENT VERSION.

9 SO AS YOU MAY HAVE SEEN, THE JURY INSTRUCTIONS THAT WERE  
10 FILED LAST NIGHT INCLUDED THE 2017 LANGUAGE, EVEN THOUGH WE ALL  
11 KIND OF PREFER THE 2010. OKAY? I THINK IT'S JUST BEST TO  
12 FOLLOW THE MOST CURRENT NINTH CIRCUIT MODEL INSTRUCTION.

13 NOW, I ALSO REALIZED THIS MORNING THAT WE DID NOT INCLUDE  
14 THE STIPULATIONS OF FACT INSTRUCTION.

15 NOW, I'M NOT AS CONCERNED ABOUT IT BECAUSE INSTRUCTION  
16 NUMBER 3.6, WHAT IS EVIDENCE, DOES IDENTIFY ANY FACTS TO WHICH  
17 THE PARTIES HAVE AGREED AS EVIDENCE THAT THEY ARE TO CONSIDER.  
18 THAT'S PAGE 6 OF THE JURY INSTRUCTIONS.

19 SO I'M OKAY WITH NOT MAKING A CHANGE, BUT IF YOU WANTED ME  
20 TO, I COULD READ, YOU KNOW, NINTH CIRCUIT MODEL INSTRUCTION  
21 2.4, STIPULATIONS OF FACT.

22 WHAT WOULD YOU PREFER?

23 MR. DELAHUNTY: THE GOVERNMENT SUBMITS AT THE  
24 DISCRETION OF THE COURT AND THE DEFENSE.

25 MR. HOROWITZ: I ALWAYS LIKE LESS INSTRUCTIONS THAN

1 MORE.

2 THE COURT: OKAY. SO YOU'RE SATISFIED -- YOU THINK  
3 3.6 WILL COVER IT?

4 MR. HOROWITZ: YES.

5 THE COURT: DO YOU AGREE WITH THAT, MS. CHUNG?

6 MS. CHUNG: WE AGREE.

7 THE COURT: OKAY. THEN LET'S JUST LEAVE THAT AS IS.  
8 I ALSO AGREE, I THINK 3.6 WILL COVER IT.

9 OKAY. I DID WANT TO JUST PUT ON THE RECORD A SPECIFIC  
10 FINDING ON THE DEFENSE THEORY OF THE CASE INSTRUCTION. I'M  
11 READING FROM UNITED STATES VERSUS MOE, M-O-E, 781 F.3D 1120,  
12 2015. AND IT SAYS AT PAGE 1127 THROUGH 1128, "A DEFENDANT IS  
13 NOT ENTITLED TO HAVE THE JURY INSTRUCTED IN THE PARTICULAR  
14 LANGUAGE OF HER CHOICE. NEVERTHELESS, A DISTRICT COURT'S  
15 FAILURE TO GIVE A DEFENDANT'S REQUESTED INSTRUCTION THAT IS  
16 SUPPORTED BY LAW AND HAS SOME FOUNDATION IN THE EVIDENCE  
17 WARRANTS PER SE REVERSAL, UNLESS OTHER INSTRUCTIONS, IN THEIR  
18 ENTIRETY, ADEQUATELY COVER THAT DEFENSE THEORY."

19 AND IN THIS PARTICULAR CASE, I DO THINK THE OTHER  
20 INSTRUCTIONS ADEQUATELY COVER THE DEFENSE THEORY, AND SO I  
21 THINK A SEPARATE THEORY OF THE CASE INSTRUCTION IS NOT  
22 NECESSARY AND THAT THAT WOULD JUST BE THE SUBJECT OF CLOSING  
23 ARGUMENTS.

24 AND SIMILARLY WITH REGARD TO THE OTHER INSTRUCTIONS.  
25 WHERE I FELT IT WAS WARRANTED, I INCLUDED THE OBJECTIONS OF THE

1 PARTIES IN THE FINAL JURY INSTRUCTIONS; BUT WHERE I THOUGHT  
2 SORT OF SOME MODIFICATION TO THE MODEL JURY INSTRUCTIONS WAS  
3 NOT WARRANTED, I EXCLUDED THEM OR SOME SPECIAL UNIQUE  
4 CUSTOMIZED INSTRUCTION.

5 WITH THAT, LET'S GO AHEAD AND BRING -- I HAVE A COUPLE OF  
6 OTHER ISSUES WE NEED TO PUT ON THE RECORD, BUT LET'S DO THAT  
7 LATER. I DON'T WANT THE JURORS TO WAIT TOO LONG.

8 IF YOU COULD BRING OUR JURY IN, PLEASE.

9 THE CLERK: YES, YOUR HONOR.

10 MR. DELAHUNTY: YOUR HONOR, REAL QUICK, IS THERE ANY  
11 OBJECTION TO TURNING THE PODIUM?

12 THE COURT: NO, THAT'S FINE. GO AHEAD.

13 MR. DELAHUNTY: THANK YOU.

14 THE COURT: ALL RIGHT. LET'S BRING OUR JURY IN,  
15 PLEASE.

16 MS. CHUNG: ARE WE GOING TO INSTRUCT FIRST?

17 MR. DELAHUNTY: OH.

18 MS. CHUNG: YOU CAN LEAVE IT. JUST LEAVE IT.

19 THE COURT: JUST LEAVE IT, THAT'S FINE. NO ONE IS  
20 GOING TO USE IT.

21 THE CLERK: YOUR HONOR, THERE ARE A COUPLE IN THE  
22 RESTROOM.

23 THE COURT: DO YOU HAVE THE HARD COPIES?

24 THE CLERK: I DO, YOUR HONOR.

25 THE COURT: OKAY, GREAT.

1 (JURY IN AT 9:14 A.M.)

2 (PAUSE IN PROCEEDINGS.)

3 THE COURT: ALL RIGHT. WELCOME BACK. EVERYONE  
4 PLEASE TAKE A SEAT.

5 INSTRUCTION 3.1.

6 MEMBERS OF THE JURY, NOW THAT YOU HAVE HEARD ALL THE  
7 EVIDENCE, IT IS MY DUTY TO INSTRUCT YOU ON THE LAW THAT APPLIES  
8 TO THIS CASE. YOU MAY KEEP YOUR COPY OF THESE INSTRUCTIONS  
9 DURING CLOSING ARGUMENTS AND IN THE JURY ROOM FOR YOU TO  
10 CONSULT.

11 IT IS YOUR DUTY TO WEIGH AND TO EVALUATE ALL THE EVIDENCE  
12 RECEIVED IN THE CASE AND, IN THAT PROCESS, TO DECIDE THE FACTS.

13 IT IS ALSO YOUR DUTY TO APPLY THE LAW AS I GIVE IT TO YOU  
14 TO THE FACTS AS YOU FIND THEM, WHETHER YOU AGREE WITH THE LAW  
15 OR NOT. YOU MUST DECIDE THE CASE SOLELY ON THE EVIDENCE AND  
16 THE LAW. DO NOT ALLOW PERSONAL LIKES OR DISLIKES, SYMPATHY,  
17 PREJUDICE, FEAR, OR PUBLIC OPINION TO INFLUENCE YOU. YOU  
18 SHOULD ALSO NOT BE INFLUENCED BY ANY PERSON'S RACE, COLOR,  
19 RELIGION, NATIONAL ANCESTRY, GENDER, SEXUAL ORIENTATION,  
20 PROFESSION, OCCUPATION, CELEBRITY, ECONOMIC CIRCUMSTANCES, OR  
21 POSITION IN LIFE OR IN THE COMMUNITY. YOU WILL RECALL THAT YOU  
22 TOOK AN OATH PROMISING TO DO SO AT THE BEGINNING OF THE CASE.

23 YOU MUST FOLLOW ALL THESE INSTRUCTIONS AND NOT SINGLE OUT  
24 SOME AND IGNORE OTHERS; THEY ARE ALL IMPORTANT. PLEASE DO NOT  
25 READ INTO THESE INSTRUCTIONS OR INTO ANYTHING I MAY HAVE SAID

1 OR DONE ANY SUGGESTION AS TO WHAT VERDICT YOU SHOULD RETURN --  
2 THAT IS A MATTER ENTIRELY UP TO YOU.

3 3.2.

4 THE INDICTMENT IS NOT EVIDENCE. THE DEFENDANTS HAVE  
5 PLEADED NOT GUILTY TO THE CHARGES. THE DEFENDANTS ARE PRESUMED  
6 TO BE INNOCENT UNLESS AND UNTIL THE GOVERNMENT PROVES THE  
7 DEFENDANTS GUILTY BEYOND A REASONABLE DOUBT.

8 IN ADDITION, THE DEFENDANTS DO NOT HAVE TO TESTIFY OR  
9 PRESENT ANY EVIDENCE TO PROVE INNOCENCE. THE GOVERNMENT HAS  
10 THE BURDEN OF PROVING EVERY ELEMENT OF THE CHARGES BEYOND A  
11 REASONABLE DOUBT.

12 3.4.

13 THE DEFENDANTS HAVE TESTIFIED. YOU SHOULD TREAT THIS  
14 TESTIMONY JUST AS YOU WOULD THE TESTIMONY OF ANY OTHER WITNESS.

15 3.5.

16 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU  
17 FIRMLY CONVINCED THE DEFENDANT IS GUILTY. IT IS NOT REQUIRED  
18 THAT THE GOVERNMENT PROVE GUILT BEYOND ALL POSSIBLE DOUBT.

19 A REASONABLE DOUBT IS A DOUBT BASED UPON REASON AND COMMON  
20 SENSE AND IS NOT BASED PURELY ON SPECULATION. IT MAY ARISE  
21 FROM A CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE  
22 OR FROM LACK OF EVIDENCE.

23 IF, AFTER A CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE  
24 EVIDENCE, YOU ARE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT  
25 THE DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT



1 NOT GUILTY.

2 ON THE OTHER HAND, IF, AFTER A CAREFUL AND IMPARTIAL  
3 CONSIDERATION OF ALL THE EVIDENCE, YOU ARE CONVINCED BEYOND A  
4 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY, IT IS YOUR DUTY  
5 TO FIND THE DEFENDANT GUILTY.

6 3.6.

7 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE WHAT THE FACTS  
8 ARE CONSISTS OF:

9 THE SWORN TESTIMONY OF ANY WITNESS;

10 THE EXHIBITS THAT HAVE -- WHICH HAVE BEEN RECEIVED INTO  
11 EVIDENCE; AND

12 ANY FACTS TO WHICH THE PARTIES HAVE AGREED.

13 3.7.

14 IN REACHING YOUR VERDICT, YOU MAY CONSIDER ONLY THE  
15 TESTIMONY AND EXHIBITS RECEIVED IN EVIDENCE. THE FOLLOWING  
16 THINGS ARE NOT EVIDENCE AND YOU MAY NOT CONSIDER THEM IN  
17 DECIDING WHAT THE FACTS ARE:

18 QUESTIONS, STATEMENTS, OBJECTIONS, AND ARGUMENTS BY THE  
19 LAWYERS ARE NOT EVIDENCE. THE LAWYERS ARE NOT WITNESSES.

20 ALTHOUGH YOU MUST CONSIDER A LAWYER'S QUESTIONS TO UNDERSTAND  
21 THE ANSWERS OF A WITNESS, THE LAWYER'S QUESTIONS ARE NOT  
22 EVIDENCE.

23 SIMILARLY, WHAT THE LAWYERS HAVE SAID IN THEIR OPENING  
24 STATEMENTS, WILL SAY IN THEIR CLOSING ARGUMENTS, AND AT OTHER  
25 TIMES IS INTENDED TO HELP YOU INTERPRET THE EVIDENCE, BUT IT IS

1 NOT EVIDENCE. IF THE FACTS AS YOU REMEMBER THEM DIFFER FROM  
2 THE WAY THE LAWYERS STATE THEM, YOUR MEMORY OF THEM CONTROLS.

3 IN ADDITION, SOME EVIDENCE WAS RECEIVED ONLY FOR A LIMITED  
4 PURPOSE; WHEN I HAVE INSTRUCTED YOU TO CONSIDER CERTAIN  
5 EVIDENCE IN A LIMITED WAY, YOU MUST DO SO.

6 ANY TESTIMONY THAT I HAVE EXCLUDED, STRICKEN, OR  
7 INSTRUCTED YOU TO DISREGARD IS NOT EVIDENCE.

8 ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN THE COURT WAS NOT  
9 SESSION IS NOT EVIDENCE. YOU ARE TO DECIDE THE CASE SOLELY ON  
10 THE EVIDENCE RECEIVED AT THE TRIAL.

11 3.8.

12 EVIDENCE MAY BE DIRECT OR CIRCUMSTANTIAL. DIRECT EVIDENCE  
13 IS DIRECT PROOF OF A FACT, SUCH AS TESTIMONY BY A WITNESS ABOUT  
14 WHAT THAT WITNESS PERSONALLY SAW OR HEARD OR DID.

15 CIRCUMSTANTIAL EVIDENCE IS INDIRECT EVIDENCE, THAT IS, IT IS  
16 PROOF OF ONE OR MORE FACTS FROM WHICH YOU CAN FIND ANOTHER  
17 FACT.

18 YOU ARE TO CONSIDER BOTH DIRECT AND CIRCUMSTANTIAL  
19 EVIDENCE. EITHER CAN BE USED TO PROVE ANY FACT. THE LAW MAKES  
20 NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT  
21 OR CIRCUMSTANTIAL EVIDENCE. IT IS FOR YOU TO DECIDE HOW MUCH  
22 WEIGHT TO GIVE TO ANY EVIDENCE.

23 3.9.

24 IN DECIDING THE FACTS IN THIS CASE, YOU MAY HAVE TO DECIDE  
25 WHICH TESTIMONY TO BELIEVE AND WHICH TESTIMONY NOT TO BELIEVE.

1 YOU MAY BELIEVE EVERYTHING A WITNESS SAYS, OR PART OF IT, OR  
2 NONE OF IT.

3 IN CONSIDERING THE TESTIMONY OF ANY WITNESS, YOU MAY TAKE  
4 INTO ACCOUNT:

5 THE WITNESS'S OPPORTUNITY AND ABILITY TO SEE OR HEAR OR  
6 KNOW THE THINGS TESTIFIED TO;

7 THE WITNESS'S MEMORY;

8 THE WITNESS'S MANNER WHILE TESTIFYING;

9 THE WITNESS'S INTEREST IN THE OUTCOME OF THE CASE, IF ANY;

10 THE WITNESS'S BIAS OR PREJUDICE, IF ANY;

11 WHETHER OTHER EVIDENCE CONTRADICTED THE WITNESS'S  
12 TESTIMONY;

13 THE REASONABLENESS OF THE WITNESS'S TESTIMONY IN LIGHT OF  
14 ALL THE EVIDENCE; AND

15 ANY OTHER FACTORS THAT BEAR ON BELIEVABILITY.

16 THE WEIGHT OF THE EVIDENCE AS TO A FACT DOES NOT  
17 NECESSARILY DEPEND ON THE NUMBER OF WITNESSES WHO TESTIFY.

18 WHAT IS IMPORTANT IS HOW BELIEVABLE THE WITNESSES WERE, AND HOW  
19 MUCH WEIGHT YOU THINK THEIR TESTIMONY DESERVES.

20 3.10.

21 YOU ARE HERE ONLY TO DETERMINE WHETHER THE DEFENDANTS ARE  
22 GUILTY OF THE CHARGES IN THE INDICTMENT. THE DEFENDANTS ARE  
23 NOT ON TRIAL FOR ANY CONDUCT OR OFFENSE NOT CHARGED IN THE  
24 INDICTMENT.

25 3.13.

1           A SEPARATE CRIME IS CHARGED AGAINST ONE OR MORE OF THE  
2 DEFENDANTS IN EACH COUNT. THE CHARGES HAVE BEEN JOINED FOR  
3 TRIAL. YOU MUST DECIDE THE CASE OF EACH DEFENDANT ON EACH  
4 CRIME CHARGED AGAINST THAT DEFENDANT SEPARATELY. YOUR VERDICT  
5 ON ANY COUNT AS TO ANY DEFENDANT SHOULD NOT CONTROL YOUR  
6 VERDICT ON ANY OTHER COUNT OR AS TO ANY OTHER DEFENDANT.

7           ALL OF THE INSTRUCTIONS APPLY TO EACH DEFENDANT AND TO  
8 EACH COUNT UNLESS A SPECIFIC INSTRUCTION STATES THAT IT APPLIES  
9 ONLY TO A SPECIFIC DEFENDANT OR COUNT.

10           3.19.

11           THE HINDI LANGUAGE HAS BEEN USED DURING THIS TRIAL.

12           THE EVIDENCE YOU ARE TO CONSIDER IS ONLY THAT PROVIDED  
13 THROUGH THE OFFICIAL COURT TRANSLATOR. ALTHOUGH SOME OF YOU  
14 MAY KNOW THE HINDI LANGUAGE, IT IS IMPORTANT THAT ALL JURORS  
15 CONSIDER THE SAME EVIDENCE. THEREFORE, YOU MUST ACCEPT THE  
16 EVIDENCE PRESENTED IN THE ENGLISH TRANSLATION AND DISREGARD ANY  
17 DIFFERENT MEANING.

18           3.20.

19           THE INDICTMENT CHARGES THAT THE OFFENSES ALLEGED IN THE  
20 INDICTMENT WERE COMMITTED "ON OR ABOUT" CERTAIN DATES.  
21 ALTHOUGH IT IS NECESSARY FOR THE GOVERNMENT TO PROVE BEYOND A  
22 REASONABLE DOUBT THAT THE OFFENSE WAS COMMITTED ON A DATE  
23 REASONABLY NEAR THE DATE ALLEGED IN THE INDICTMENT, IT IS NOT  
24 NECESSARY FOR THE GOVERNMENT TO PROVE THAT THE OFFENSE WAS  
25 COMMITTED PRECISELY ON THE DATE CHARGED.

1           4.3.

2           YOU HAVE HEARD EVIDENCE THAT THE DEFENDANT COMMITTED OTHER  
3 ACTS NOT CHARGED HERE. YOU MAY CONSIDER THIS EVIDENCE ONLY FOR  
4 ITS BEARING, IF ANY, ON THE QUESTIONS OF THE DEFENDANT'S  
5 INTENT, MOTIVE, OPPORTUNITY, PLAN, KNOWLEDGE, IDENTITY, ABSENCE  
6 OF MISTAKE, ABSENCE OF ACCIDENT, AND FOR NO OTHER PURPOSE.

7           4.14.

8           YOU HAVE HEARD TESTIMONY FROM HOWARD FRIEDMAN,  
9 ANNA GLEZER, CARLENE KIKUGAWA, STACY KINSEL, AND  
10 DOUGLAS LEVINSON, WHO TESTIFIED TO OPINIONS AND THE REASONS FOR  
11 THEIR OPINIONS. THIS OPINION TESTIMONY IS ALLOWED BECAUSE OF  
12 THE EDUCATION OR EXPERIENCE OF THESE WITNESSES.

13           SUCH OPINION TESTIMONY SHOULD BE JUDGED LIKE ANY OTHER  
14 TESTIMONY. YOU MAY ACCEPT IT OR REJECT IT, AND GIVE IT AS MUCH  
15 WEIGHT AS YOU THINK IT DESERVES, CONSIDERING THE WITNESS'S  
16 EDUCATION AND EXPERIENCE, THE REASONS GIVEN FOR THE OPINION,  
17 AND ALL THE OTHER EVIDENCE IN THE CASE.

18           4.16.

19           CERTAIN CHARTS AND SUMMARIES HAVE BEEN ADMITTED IN  
20 EVIDENCE. CHARTS AND SUMMARIES ARE ONLY AS GOOD AS THE  
21 UNDERLYING SUPPORTING MATERIAL. YOU SHOULD, THEREFORE, ONLY  
22 GIVE THEM SUCH WEIGHT AS YOU THINK THE UNDERLYING MATERIAL  
23 DESERVES.

24           5.1.

25           A DEFENDANT MAY BE FOUND GUILTY OF A CRIME EVEN IF A

1 DEFENDANT PERSONALLY DID NOT COMMIT THE ACT OR ACTS  
2 CONSTITUTING THE CRIME BUT AIDED AND ABETTED IN ITS COMMISSION.

3 IN COUNTS NINETEEN THROUGH TWENTY-FOUR, DEFENDANT  
4 VILASINI GANESH AND DEFENDANT GREGORY BELCHER HAVE BEEN CHARGED  
5 WITH MONEY LAUNDERING AND WITH AIDING AND ABETTING MONEY  
6 LAUNDERING. TO PROVE A DEFENDANT GUILTY OF A SUBSTANTIVE CRIME  
7 BY AIDING AND ABETTING, THE GOVERNMENT MUST PROVE EACH OF THE  
8 FOLLOWING BEYOND A REASONABLE DOUBT:

9 FIRST, THE SUBSTANTIVE CRIME WAS COMMITTED BY SOMEONE;

10 SECOND, THE DEFENDANT AIDED, COUNSELLED, COMMANDED,  
11 INDUCED OR PROCURED THAT PERSON WITH RESPECT TO AT LEAST ONE  
12 ELEMENT OF THE SUBSTANTIVE CRIME;

13 THIRD, THE DEFENDANT ACTED WITH THE INTENT TO FACILITATE  
14 THE SUBSTANTIVE CRIME; AND

15 FOURTH, THE DEFENDANT ACTED BEFORE THE CRIME WAS  
16 COMPLETED.

17 IT IS NOT ENOUGH THAT THE DEFENDANT MERELY ASSOCIATED WITH  
18 THE PERSON COMMITTING THE CRIME OR UNKNOWINGLY OR  
19 UNINTENTIONALLY DID THINGS THAT WERE HELPFUL TO THAT PERSON, OR  
20 WAS PRESENT AT THE SCENE OF THE CRIME. THE EVIDENCE MUST SHOW  
21 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ACTED WITH THE  
22 KNOWLEDGE AND INTENTION OF HELPING THAT PERSON COMMIT THE  
23 SUBSTANTIVE CRIME.

24 A DEFENDANT ACTS WITH THE INTENT TO FACILITATE THE CRIME  
25 WHEN THE DEFENDANT ACTIVELY PARTICIPATES IN A CRIMINAL VENTURE

1 WITH ADVANCE KNOWLEDGE OF THE CRIME AND HAVING ACQUIRED THAT  
2 KNOWLEDGE WHEN THE DEFENDANT STILL HAD A REALISTIC OPPORTUNITY  
3 TO WITHDRAW FROM THE CRIME.

4 THE GOVERNMENT IS NOT REQUIRED TO PROVE PRECISELY WHICH  
5 DEFENDANT ACTUALLY COMMITTED THE CRIME AND WHICH DEFENDANT  
6 AIDED AND ABETTED.

7 5.5.

8 THE GOVERNMENT MUST PROVE THAT THE DEFENDANT ACTED  
9 WILLFULLY IN COMMITTING HEALTH CARE FRAUD AND MAKING FALSE  
10 STATEMENTS RELATED TO HEALTH CARE MATTERS. AN ACT IS DONE  
11 WILLFULLY IF THE DEFENDANT ACTED WITH BAD PURPOSE AND WITH  
12 KNOWLEDGE THAT THE CONDUCT WAS UNLAWFUL. THE GOVERNMENT NEED  
13 NOT PROVE THAT THE DEFENDANT WAS AWARE OF THE SPECIFIC  
14 PROVISION OF THE LAW THAT THE DEFENDANT IS CHARGED WITH  
15 VIOLATING OR ANY OTHER SPECIFIC PROVISION.

16 5.6.

17 AN ACT IS DONE KNOWINGLY IF THE DEFENDANT IS AWARE OF THE  
18 ACT AND DOES NOT ACT THROUGH IGNORANCE, MISTAKE, OR ACCIDENT.

19 YOU MAY CONSIDER EVIDENCE OF THE DEFENDANT'S WORDS, ACTS,  
20 OR OMISSIONS, ALONG WITH ALL THE OTHER EVIDENCE, IN DECIDING  
21 WHETHER THE DEFENDANT ACTED KNOWINGLY.

22 6.4.

23 DEFENDANT VILASINI GANESH CONTENTS SHE WAS INSANE AT THE  
24 TIME OF THE CRIMES. INSANITY IS A DEFENSE TO THE CHARGES. THE  
25 SANITY OF THE DEFENDANT AT THE TIME OF THE CRIMES CHARGED IS

1 THEREFORE A QUESTION YOU MUST DECIDE.

2 A DEFENDANT IS INSANE ONLY IF AT THE TIME OF THE CRIMES  
3 CHARGED:

4 THE DEFENDANT HAD A SEVERE MENTAL DISEASE OR DEFECT; AND  
5 AS A RESULT, THE DEFENDANT WAS UNABLE TO APPRECIATE THE  
6 NATURE AND QUALITY OR THE WRONGFULNESS OF HER ACTS.

7 THE DEFENDANT HAS THE BURDEN OF PROVING THE DEFENSE OF  
8 INSANITY BY CLEAR AND CONVINCING EVIDENCE. CLEAR AND  
9 CONVINCING EVIDENCE OF INSANITY MEANS THAT IT IS HIGHLY  
10 PROBABLE THAT THE DEFENDANT WAS INSANE AT THE TIME OF THE  
11 CRIMES. PROOF BY CLEAR AND CONVINCING EVIDENCE IS A LOWER  
12 STANDARD OF PROOF THAN PROOF BEYOND A REASONABLE DOUBT.

13 YOU MAY CONSIDER EVIDENCE OF DEFENDANT'S MENTAL CONDITION  
14 BEFORE OR AFTER THE CRIMES TO DECIDE WHETHER DEFENDANT WAS  
15 INSANE AT THE TIME OF THE CRIMES.

16 INSANITY MAY BE TEMPORARY OR EXTENDED. YOUR FINDING ON  
17 THE QUESTION OF WHETHER THE DEFENDANT WAS INSANE AT THE TIME OF  
18 THE CRIMES MUST BE UNANIMOUS.

19 7.1.

20 WHEN YOU BEGIN YOUR DELIBERATIONS, ELECT ONE MEMBER OF THE  
21 JURY AS YOUR PRESIDING JUROR WHO WILL PRESIDE OVER THE  
22 DELIBERATIONS AND SPEAK FOR YOU HERE IN COURT.

23 YOU WILL THEN DISCUSS THE CASE WITH YOUR FELLOW JURORS TO  
24 REACH AGREEMENT IF YOU CAN DO SO. YOUR VERDICT, WHETHER GUILTY  
25 OR NOT GUILTY, MUST BE UNANIMOUS.



1           EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT YOU  
2           SHOULD DO SO ONLY AFTER YOU HAVE CONSIDERED ALL THE EVIDENCE,  
3           DISCUSSED IT FULLY WITH THE OTHER JURORS, AND LISTENED TO THE  
4           VIEWS OF YOUR FELLOW JURORS.

5           DO NOT BE AFRAID TO CHANGE YOUR OPINION IF THE DISCUSSION  
6           PERSUADES YOU THAT YOU SHOULD. BUT DO NOT COME TO A DECISION  
7           SIMPLY BECAUSE OTHER JURORS THINK IT IS RIGHT.

8           IT IS IMPORTANT THAT YOU ATTEMPT TO REACH A UNANIMOUS  
9           VERDICT BUT, OF COURSE, ONLY IF EACH OF YOU CAN DO SO AFTER  
10          HAVING MADE YOUR OWN CONSCIENTIOUS DECISION. DO NOT CHANGE AN  
11          HONEST BELIEF ABOUT THE WEIGHT AND EFFECT OF THE EVIDENCE  
12          SIMPLY TO REACH A VERDICT.

13          PERFORM THESE DUTIES FAIRLY AND IMPARTIALLY. DO NOT ALLOW  
14          PERSONAL LIKES OR DISLIKES, SYMPATHY, PREJUDICE, FEAR, OR  
15          PUBLIC OPINION TO INFLUENCE YOU. YOU SHOULD ALSO NOT BE  
16          INFLUENCED BY ANY PERSON'S RACE, COLOR, RELIGION, NATIONAL  
17          ANCESTRY, GENDER, SEXUAL ORIENTATION, PROFESSION, OCCUPATION,  
18          CELEBRITY, ECONOMIC CIRCUMSTANCES, OR POSITION IN LIFE OR IN  
19          THE COMMUNITY.

20          IT IS YOUR DUTY AS JURORS TO CONSULT WITH ONE ANOTHER AND  
21          TO DELIBERATE WITH ONE ANOTHER WITH A VIEW TOWARDS REACHING AN  
22          AGREEMENT IF YOU CAN DO SO. DURING YOUR DELIBERATIONS, YOU  
23          SHOULD NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE  
24          YOUR OPINION IF YOU BECOME PERSUADED THAT IT IS WRONG.

25                7.2.

1           BECAUSE YOU MUST BASE YOUR VERDICT ONLY ON THE EVIDENCE  
2 RECEIVED IN THE CASE AND ON THESE INSTRUCTIONS, I REMIND YOU  
3 THAT YOU MUST NOT BE EXPOSED TO ANY OTHER INFORMATION ABOUT THE  
4 CASE OR TO THE ISSUES IT INVOLVES. EXCEPT FOR DISCUSSING THE  
5 CASE WITH YOUR FELLOW JURORS DURING YOUR DELIBERATIONS:

6           DO NOT COMMUNICATE WITH ANYONE IN ANY WAY AND DO NOT LET  
7 ANYONE ELSE COMMUNICATE WITH YOU IN ANY WAY ABOUT THE MERITS OF  
8 THE CASE OR ANYTHING TO DO WITH IT. THIS INCLUDES DISCUSSING  
9 THE CASE IN PERSON, IN WRITING, BY PHONE OR ELECTRONIC MEANS,  
10 VIA E-MAIL, TEXT MESSAGING, OR ANY INTERNET CHAT ROOM, BLOG,  
11 WEBSITE OR OTHER FEATURE. THIS APPLIES TO COMMUNICATING WITH  
12 YOUR FAMILY MEMBERS, YOUR EMPLOYER, THE MEDIA OR PRESS, AND THE  
13 PEOPLE INVOLVED IN THE TRIAL. IF YOU ARE ASKED OR APPROACHED  
14 IN ANY WAY ABOUT YOUR JURY SERVICE OR ANYTHING ABOUT THIS CASE,  
15 YOU MUST RESPOND THAT YOU HAVE BEEN ORDERED NOT TO DISCUSS THE  
16 MATTER AND TO REPORT THE CONTACT TO THE COURT.

17           DO NOT READ, WATCH, OR LISTEN TO ANY NEWS OR MEDIA  
18 ACCOUNTS OR COMMENTARY ABOUT THE CASE OR ANYTHING TO DO WITH  
19 IT; DO NOT DO ANY RESEARCH, SUCH AS CONSULTING DICTIONARIES,  
20 SEARCHING THE INTERNET OR USING OTHER REFERENCE MATERIALS; AND  
21 DO NOT MAKE ANY INVESTIGATION OR IN ANY OTHER WAY TRY TO LEARN  
22 ABOUT THE CASE ON YOUR OWN.

23           THE LAW REQUIRES THESE RESTRICTIONS TO ENSURE THE PARTIES  
24 HAVE A FAIR TRIAL BASED ON THE SAME EVIDENCE THAT EACH PARTY  
25 HAS HAD AN OPPORTUNITY TO ADDRESS. A JUROR WHO VIOLATES THESE

1 RESTRICTIONS JEOPARDIZES THE FAIRNESS OF THESE PROCEEDINGS, AND  
2 A MISTRIAL COULD RESULT THAT WOULD REQUIRE THE ENTIRE TRIAL  
3 PROCESS TO START OVER. IF ANY JUROR IS EXPOSED TO ANY OUTSIDE  
4 INFORMATION, PLEASE NOTIFY THE COURT IMMEDIATELY.

5 7.3.

6 SOME OF YOU HAVE TAKEN NOTES DURING THE TRIAL. WHETHER OR  
7 NOT YOU TOOK NOTES, YOU SHOULD RELY ON YOUR OWN MEMORY OF WHAT  
8 WAS SAID. NOTES ARE ONLY TO ASSIST YOUR MEMORY. YOU SHOULD  
9 NOT BE OVERLY INFLUENCED BY YOUR NOTES OR THOSE OF YOUR FELLOW  
10 JURORS.

11 7.4.

12 THE PUNISHMENT PROVIDED BY LAW FOR THIS CRIME IS FOR THE  
13 COURT TO DECIDE. YOU MAY NOT CONSIDER PUNISHMENT IN DECIDING  
14 WHETHER THE GOVERNMENT HAS PROVED ITS CASE AGAINST THE  
15 DEFENDANT BEYOND A REASONABLE DOUBT.

16 7.5.

17 A VERDICT FORM HAS BEEN PREPARED FOR YOU. AFTER YOU HAVE  
18 REACHED UNANIMOUS AGREEMENT ON A VERDICT, YOUR PRESIDING JUROR  
19 SHOULD COMPLETE THE VERDICT FORM ACCORDING TO YOUR  
20 DELIBERATIONS, SIGN AND DATE IT, AND ADVISE THE CLERK THAT YOU  
21 ARE READY TO RETURN TO THE COURTROOM.

22 7.6.

23 IF IT BECOMES NECESSARY DURING YOUR DELIBERATIONS TO  
24 COMMUNICATE WITH ME, YOU MAY SEND A NOTE THROUGH THE CLERK,  
25 SIGNED BY ANY ONE OR MORE OF YOU. NO MEMBER OF THE JURY SHOULD

1 EVER ATTEMPT TO COMMUNICATE WITH ME EXCEPT BY A SIGNED WRITING,  
2 AND I WILL RESPOND TO THE JURY CONCERNING THE CASE ONLY IN  
3 WRITING OR HERE IN OPEN COURT.

4 IF YOU SEND OUT A QUESTION, I WILL CONSULT WITH THE  
5 LAWYERS BEFORE ANSWERING IT, WHICH MAY TAKE SOME TIME. YOU MAY  
6 CONTINUE YOUR DELIBERATIONS WHILE WAITING FOR THE ANSWER TO ANY  
7 QUESTION. REMEMBER THAT YOU ARE NOT TO TELL ANYONE --  
8 INCLUDING ME -- HOW THE JURY STANDS, NUMERICALLY OR OTHERWISE,  
9 ON ANY QUESTION SUBMITTED TO YOU, INCLUDING THE QUESTION OF THE  
10 GUILT OF THE DEFENDANT, UNTIL AFTER YOU HAVE REACHED A  
11 UNANIMOUS VERDICT OR HAVE BEEN DISCHARGED.

12 8.20A.

13 EACH DEFENDANT IS CHARGED IN COUNT ONE OF THE INDICTMENT  
14 WITH CONSPIRING TO COMMIT HEALTH CARE FRAUD, IN VIOLATION OF  
15 TITLE 18, UNITED STATES CODE, SECTION 1349. IN ORDER FOR THE  
16 DEFENDANT TO BE FOUND GUILTY OF COUNT ONE, THE GOVERNMENT MUST  
17 PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

18 FIRST, FROM AT LEAST IN OR ABOUT JANUARY 2008 THROUGH IN  
19 OR ABOUT JANUARY 2015, THERE WAS AN AGREEMENT BETWEEN TWO OR  
20 MORE PERSONS TO COMMIT THE CRIME OF HEALTH CARE FRAUD. I WILL  
21 INSTRUCT YOU REGARDING THE ELEMENTS OF HEALTH CARE FRAUD IN A  
22 SUBSEQUENT INSTRUCTION.

23 SECOND, THE DEFENDANT BECAME A MEMBER OF THE CONSPIRACY  
24 KNOWING OF AT LEAST ONE OF ITS OBJECTS AND INTENDING TO HELP  
25 ACCOMPLISH IT.

1 FOR A CONSPIRACY TO HAVE EXISTED, IT IS NOT NECESSARY THAT  
2 THE CONSPIRATORS MADE A FORMAL AGREEMENT OR THAT THEY AGREED ON  
3 EVERY DETAIL OF THE CONSPIRACY. IT IS NOT ENOUGH, HOWEVER,  
4 THAT THEY SIMPLY MET, DISCUSSED MATTERS OF COMMON INTEREST,  
5 ACTED IN SIMILAR WAYS, OR PERHAPS HELPED ONE ANOTHER. YOU MUST  
6 FIND THAT THERE WAS A PLAN TO COMMIT AT LEAST ONE OF THE CRIMES  
7 ALLEGED IN THE INDICTMENT AS AN OBJECT OR PURPOSE OF THE  
8 CONSPIRACY, WITH ALL OF YOU AGREEING AS TO THE PARTICULAR CRIME  
9 WHICH THE CONSPIRATORS AGREED TO COMMIT.

10 ONE BECOMES A MEMBER OF A CONSPIRACY BY WILLFULLY  
11 PARTICIPATING IN THE UNLAWFUL PLAN WITH THE INTENT TO ADVANCE  
12 OR FURTHER SOME OBJECT OR PURPOSE OF THE CONSPIRACY, EVEN  
13 THOUGH THE PERSON DOES NOT HAVE FULL KNOWLEDGE OF ALL THE  
14 DETAILS OF THE CONSPIRACY.

15 FURTHERMORE, ONE WHO WILLFULLY JOINS AN EXISTING  
16 CONSPIRACY IS AS RESPONSIBLE FOR IT AS THE ORIGINATORS.

17 ON THE OTHER HAND, ONE WHO HAS NO KNOWLEDGE OF A  
18 CONSPIRACY, BUT HAPPENS TO ACT IN A WAY WHICH FURTHERS SOME  
19 OBJECT OR PURPOSE OF THE CONSPIRACY, DOES NOT THEREBY BECOME A  
20 CONSPIRATOR.

21 SIMILARLY, A PERSON DOES NOT BECOME A CONSPIRATOR MERELY  
22 BY ASSOCIATING WITH ONE OR MORE PERSONS WHO ARE CONSPIRATORS,  
23 NOR MERELY BY KNOWING THAT A CONSPIRACY EXISTS.

24 8.20B.

25 EACH DEFENDANT IS CHARGED IN COUNT EIGHTEEN OF THE

1 INDICTMENT WITH CONSPIRING TO COMMIT MONEY LAUNDERING, IN  
2 VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349. IN  
3 ORDER FOR THE DEFENDANT TO BE FOUND GUILTY OF COUNT EIGHTEEN,  
4 THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND  
5 A REASONABLE DOUBT:

6 FIRST, FROM IN OR ABOUT MAY 2011 AND CONTINUING UNTIL IN  
7 OR ABOUT JANUARY 2014, THERE WAS AN AGREEMENT BETWEEN TWO OR  
8 MORE PERSONS TO COMMIT THE CRIME OF MONEY LAUNDERING. I WILL  
9 INSTRUCT YOU REGARDING THE ELEMENTS OF MONEY LAUNDERING IN A  
10 SUBSEQUENT INSTRUCTION.

11 SECOND, THE DEFENDANT BECAME A MEMBER OF THE CONSPIRACY  
12 KNOWING OF AT LEAST ONE OF ITS OBJECTS AND INTENDING TO HELP  
13 ACCOMPLISH IT.

14 A CONSPIRACY IS A KIND OF CRIMINAL PARTNERSHIP -- AN  
15 AGREEMENT OF TWO OR MORE PERSONS TO COMMIT ONE OR MORE CRIMES.  
16 THE CRIME OF CONSPIRACY IS THE AGREEMENT TO DO SOMETHING  
17 UNLAWFUL; IT DOES NOT MATTER WHETHER THE CRIME AGREED WAS  
18 COMMITTED.

19 FOR A CONSPIRACY TO HAVE EXISTED, IT IS NOT NECESSARY THAT  
20 THE CONSPIRATORS MADE A FORMAL AGREEMENT OR THAT THEY AGREED ON  
21 EVERY DETAIL OF THE CONSPIRACY. IT IS NOT ENOUGH, HOWEVER,  
22 THAT THEY SIMPLY MET, DISCUSSED MATTERS OF COMMON INTEREST,  
23 ACTED IN SIMILAR WAYS, OR PERHAPS HELPED ONE ANOTHER. YOU MUST  
24 FIND THAT THERE WAS A PLAN TO COMMIT AT LEAST ONE OF THE CRIMES  
25 ALLEGED IN THE INDICTMENT AS AN OBJECT OR PURPOSE OF

1 CONSPIRACY, WITH ALL OF YOU AGREEING AS TO THE PARTICULAR CRIME  
2 WHICH THE CONSPIRATORS AGREED TO COMMIT.

3 ONE BECOMES A MEMBER OF THE CONSPIRACY BY WILLFULLY  
4 PARTICIPATING IN THE UNLAWFUL PLAN WITH THE INTENT TO ADVANCE  
5 OR FURTHER SOME OBJECT OR PURPOSE OF THE CONSPIRACY, EVEN  
6 THOUGH THE PERSON DOES NOT HAVE FULL KNOWLEDGE OF ALL OF THE  
7 DETAILS OF THE CONSPIRACY.

8 FURTHERMORE, ONE WHO WILLFULLY JOINS AN EXISTING  
9 CONSPIRACY IS AS RESPONSIBLE FOR IT AS THE ORIGINATORS. ON THE  
10 OTHER HAND, ONE WHO HAS NO KNOWLEDGE OF A CONSPIRACY, BUT  
11 HAPPENS TO ACT IN A WAY WHICH FURTHERS SOME OBJECT OR PURPOSE  
12 OF THE CONSPIRACY, DOES NOT THEREBY BECOME A CONSPIRATOR.

13 SIMILARLY, A PERSON DOES NOT BECOME A CONSPIRATOR MERELY BY  
14 ASSOCIATING WITH ONE OR MORE PERSONS WHO ARE CONSPIRATORS, NOR  
15 MERELY BY KNOWING THAT A CONSPIRACY EXISTS.

16 8.23.

17 A CONSPIRACY MAY CONTINUE FOR A LONG PERIOD OF TIME AND  
18 MAY INCLUDE THE PERFORMANCE OF MANY TRANSACTIONS. IT IS NOT  
19 NECESSARY THAT ALL MEMBERS OF THE CONSPIRACY JOIN IT AT THE  
20 SAME TIME, AND ONE MAY BECOME A MEMBER OF A CONSPIRACY WITHOUT  
21 FULL KNOWLEDGE OF ALL OF THE DETAILS OF THE UNLAWFUL SCHEME OR  
22 THE NAMES, IDENTITIES, OR LOCATIONS OF ALL OF THE OTHER  
23 MEMBERS.

24 EVEN THOUGH A DEFENDANT DID NOT DIRECTLY CONSPIRE WITH THE  
25 OTHER DEFENDANT IN THE OVERALL SCHEME, THE DEFENDANT HAS, IN

1 EFFECT, AGREED TO PARTICIPATE IN THE CONSPIRACY IF THE  
2 GOVERNMENT PROVES EACH OF THE FOLLOWING BEYOND A REASONABLE  
3 DOUBT:

4 THAT THE DEFENDANT DIRECTLY CONSPIRED WITH ONE OR MORE  
5 CONSPIRATORS TO CARRY OUT AT LEAST ONE OF THE OBJECTS OF THE  
6 CONSPIRACY;

7 THE DEFENDANT KNEW OR HAD REASON TO KNOW THAT OTHER  
8 CONSPIRATORS WERE INVOLVED WITH THOSE WITH WHOM THE DEFENDANT  
9 DIRECTLY CONSPIRED; AND

10 THE DEFENDANT HAD REASON TO BELIEVE THAT WHATEVER BENEFITS  
11 THE DEFENDANT MIGHT GET FROM THE CONSPIRACY WERE PROBABLY  
12 DEPENDENT UPON THE SUCCESS OF THE ENTIRE VENTURE.

13 IT IS NOT A DEFENSE THAT A PERSON'S PARTICIPATION IN A  
14 CONSPIRACY WAS MINOR OR FOR A SHORT PERIOD OF TIME.

15 8.128A.

16 HEALTH CARE FRAUD UNDER SECTION 1347 OF TITLE 18 OF THE  
17 UNITED STATES CODE IS THE OBJECT OF THE CONSPIRACY ALLEGED IN  
18 COUNT ONE AGAINST DEFENDANT VILASINI GANESH AND DEFENDANT  
19 GREGORY BELCHER.

20 DEFENDANT VILASINI GANESH IS ALSO CHARGED IN COUNTS TWO  
21 THROUGH SIX OF THE INDICTMENT WITH HEALTH CARE FRAUD IN  
22 VIOLATION OF SECTION 1347 OF TITLE 18 OF THE UNITED STATES  
23 CODE.

24 DEFENDANT GREGORY BELCHER IS ALSO CHARGED IN COUNTS SEVEN  
25 THROUGH TEN OF THE INDICTMENT WITH HEALTH CARE FRAUD IN



1 VIOLATION OF SECTION 1347 OF TITLE 18 OF THE UNITED STATES  
2 CODE.

3 IN ORDER FOR EITHER DEFENDANT TO BE FOUND GUILTY OF HEALTH  
4 CARE FRAUD, THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING  
5 ELEMENTS BEYOND A REASONABLE DOUBT:

6 FIRST, THE DEFENDANT KNOWINGLY AND WILLFULLY EXECUTED, OR  
7 ATTEMPTED TO EXECUTE, A SCHEME OR PLAN TO DEFRAUD A HEALTH CARE  
8 BENEFIT PROGRAM, OR TO OBTAIN MONEY OR PROPERTY OWNED BY, OR  
9 UNDER THE CUSTODY OR CONTROL OF, A HEALTH CARE BENEFIT PROGRAM,  
10 BY MEANS OF MATERIAL FALSE OR FRAUDULENT PRETENSES,  
11 REPRESENTATIONS, OR PROMISES;

12 SECOND, THE DEFENDANT ACTED WITH THE INTENT TO DEFRAUD;

13 THIRD, AETNA, ANTHEM BLUE CROSS, CIGNA, BLUE SHIELD OF  
14 CALIFORNIA, AND UNITED HEALTH SERVICES WERE HEALTH CARE BENEFIT  
15 PROGRAMS;

16 FOURTH, THE SCHEME OR PLAN WAS EXECUTED IN CONNECTION WITH  
17 THE DELIVERY OR PAYMENT FOR HEALTH CARE BENEFITS, ITEMS, OR  
18 SERVICES.

19 "HEALTH CARE BENEFIT PROGRAM" MEANS ANY PUBLIC OR PRIVATE  
20 PLAN OR CONTRACT, AFFECTING COMMERCE, UNDER WHICH ANY MEDICAL  
21 BENEFIT, ITEM, OR SERVICE IS PROVIDED TO ANY INDIVIDUAL, AND  
22 INCLUDES ANY INDIVIDUAL OR ENTITY WHO IS PROVIDING A MEDICAL  
23 BENEFIT, ITEM, OR SERVICE FOR WHICH PAYMENT MAY BE MADE UNDER  
24 THE PLAN OR CONTRACT.

25 A "SCHEME TO DEFRAUD" INCLUDES ANY DELIBERATE PLAN OR

1 COURSE OF ACTION INTENDED TO DECEIVE OR CHEAT SOMEONE OUT OF  
2 MONEY OR PROPERTY BY USING FALSE OR FRAUDULENT PRETENSES,  
3 REPRESENTATIONS, OR PROMISES RELATING TO A MATERIAL FACT.

4 A "MATERIAL FACT" IS AN IMPORTANT FACT THAT A REASONABLE  
5 PERSON WOULD USE TO DECIDE WHETHER OR NOT -- I'M SORRY, EXCUSE  
6 ME -- TO DECIDE WHETHER TO DO OR NOT DO SOMETHING. A FACT IS  
7 "MATERIAL" IF IT HAS THE CAPACITY OR NATURAL TENDENCY TO  
8 INFLUENCE A PERSON'S DECISION. IT DOES NOT MATTER WHETHER THE  
9 DECISION-MAKER ACTUALLY RELIED ON THE STATEMENT OR KNEW OR  
10 SHOULD HAVE KNOWN THAT THE STATEMENT WAS FALSE.

11 THE REQUIRED SHOWING REGARDING A DEFENDANT'S INTENT MAY BE  
12 SATISFIED BY CIRCUMSTANTIAL EVIDENCE THAT HE ACTED WITH  
13 RECKLESS INDIFFERENCE TO THE TRUTH OR FALSITY OF HIS  
14 STATEMENTS.

15 1035.

16 DEFENDANT VILASINI GANESH IS CHARGED IN COUNTS ELEVEN  
17 THROUGH FIFTEEN OF THE INDICTMENT WITH MAKING FALSE STATEMENTS  
18 RELATING TO HEALTH CARE MATTERS IN VIOLATION OF SECTION 1035 OF  
19 TITLE 18 OF THE UNITED STATES CODE.

20 DEFENDANT GREGORY BELCHER IS CHARGED IN COUNTS SIXTEEN AND  
21 SEVENTEEN OF THE INDICTMENT WITH MAKING FALSE STATEMENTS  
22 RELATING TO HEALTH CARE MATTERS IN VIOLATION OF SECTION 1035 OF  
23 TITLE 18 OF THE UNITED STATES CODE.

24 IN ORDER FOR EITHER DEFENDANT TO BE FOUND GUILTY OF MAKING  
25 FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS, THE

1 GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A  
2 REASONABLE DOUBT:

3 FIRST, THAT THE DEFENDANT MADE OR USED A MATERIALLY FALSE  
4 WRITING OR DOCUMENT;

5 SECOND, THAT THE DEFENDANT KNEW THE MATERIALLY FALSE  
6 WRITING OR DOCUMENT CONTAINED A MATERIALLY FALSE, FICTITIOUS,  
7 OR FRAUDULENT STATEMENT OR ENTRY;

8 THIRD, IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR  
9 HEALTH CARE BENEFITS, ITEMS, OR SERVICES INVOLVING A HEALTH  
10 CARE BENEFIT PROGRAM; AND

11 FOURTH, THAT THE DEFENDANT DID SO KNOWINGLY AND WILLFULLY;  
12 THAT IS, THE DEFENDANT ACTED DELIBERATELY AND WITH KNOWLEDGE  
13 BOTH THAT THE STATEMENT WAS UNTRUE AND THAT HIS OR HER CONDUCT  
14 WAS UNLAWFUL.

15 8.147.

16 DEFENDANT VILASINI GANESH AND DEFENDANT GREGORY BELCHER  
17 ARE CHARGED IN COUNTS NINETEEN THROUGH TWENTY-FOUR OF THE  
18 INDICTMENT WITH LAUNDERING MONEY, IN VIOLATION OF SECTION  
19 1956(A)(1)(B) OF TITLE 18 OF THE UNITED STATES CODE. IN ORDER  
20 FOR THE DEFENDANT TO BE FOUND GUILTY OF THAT CHARGE, THE  
21 GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A  
22 REASONABLE DOUBT:

23 FIRST, THE DEFENDANT CONDUCTED A FINANCIAL TRANSACTION  
24 INVOLVING PROPERTY THAT REPRESENTED THE PROCEEDS OF HEALTH CARE  
25 FRAUD OR OF SUBMITTING FALSE STATEMENTS RELATED TO HEALTH CARE

1 MATTERS;

2 SECOND, THE DEFENDANT KNEW THAT THE PROPERTY REPRESENTED  
3 THE PROCEEDS OF SOME FORM OF UNLAWFUL ACTIVITY; AND

4 THIRD, THE DEFENDANT KNEW THAT THE TRANSACTION WAS  
5 DESIGNED IN WHOLE OR IN PART TO CONCEAL OR DISGUISE THE NATURE,  
6 LOCATION, SOURCE, OWNERSHIP, OR CONTROL OF THE PROCEEDS.

7 A FINANCIAL TRANSACTION IS A TRANSACTION INVOLVING THE  
8 MOVEMENT OF FUNDS BY WIRE OR OTHER MEANS THAT AFFECTS  
9 INTERSTATE OR FOREIGN COMMERCE IN ANY WAY; ONE OR MORE MONETARY  
10 INSTRUMENTS THAT AFFECTS INTERSTATE OR FOREIGN COMMERCE IN ANY  
11 WAY; OR THE USE OF A FINANCIAL INSTITUTION THAT IS ENGAGED IN,  
12 OR THE ACTIVITIES OF WHICH, AFFECT INTERSTATE OR FOREIGN  
13 COMMERCE IN ANY WAY.

14 THE PHRASE "KNEW THAT THE PROPERTY REPRESENTED THE  
15 PROCEEDS OF SOME FORM OF UNLAWFUL ACTIVITY" MEANS THAT THE  
16 DEFENDANT KNEW THAT THE PROPERTY INVOLVED IN THE TRANSACTION  
17 REPRESENTED PROCEEDS FROM SOME FORM, THOUGH NOT NECESSARILY  
18 WHICH FORM, OF ACTIVITY THAT CONSTITUTES A FELONY. I INSTRUCT  
19 YOU THAT HEALTH CARE FRAUD AND SUBMITTING FALSE STATEMENTS  
20 RELATED TO HEALTH CARE MATTERS ARE FELONIES.

21 NOW, BEFORE WE START WITH OPENING STATEMENTS, I THINK WE  
22 SHOULD TAKE A VERY QUICK RESTROOM BREAK, SO LET'S JUST DO THAT  
23 VERY QUICKLY. FIVE MINUTES AT THE MOST.

24 LET'S TAKE OUR BREAK. THANK YOU.

25 (JURY OUT AT 9:43 A.M.)

1 (RECESS FROM 9:43 A.M. UNTIL 9:52 A.M.)

2 (JURY IN AT 9:52 A.M.)

3 THE COURT: WELCOME BACK. PLEASE TAKE A SEAT.

4 LADIES AND GENTLEMEN, YOU'VE NOW HEARD ALL THE EVIDENCE  
5 AND THE LAW. IT IS NOW TIME TO HEAR THE CLOSING ARGUMENTS OF  
6 COUNSEL.

7 EACH COUNSEL WILL HAVE AN OPPORTUNITY TO REVIEW THE  
8 EVIDENCE AND ARGUE TO YOU WHAT HE OR SHE BELIEVES THAT EVIDENCE  
9 HAS SHOWN. I AGAIN REMIND YOU THAT WHAT THE ATTORNEYS SAY  
10 DURING THEIR ARGUMENTS IS NOT EVIDENCE. IF ANY ATTORNEY  
11 MISSTATES THE EVIDENCE OR THE LAW, YOU ARE TO RELY ON YOUR OWN  
12 RECOLLECTION OF THE EVIDENCE AND TO THE JURY INSTRUCTIONS THAT  
13 YOU HAVE IN YOUR OWN HANDS.

14 THE PLAINTIFF WILL GIVE THE FIRST ARGUMENT. NEXT, THE  
15 DEFENSE WILL GIVE THEIR ARGUMENTS. BECAUSE THE PLAINTIFF HAS  
16 THE BURDEN OF PROOF, THE PLAINTIFF WILL HAVE THE LAST  
17 OPPORTUNITY TO ADDRESS YOU IN HIS CLOSING ARGUMENT.

18 UPON THE CONCLUSION OF ARGUMENT, YOU WILL BEGIN  
19 DELIBERATIONS IN THE JURY ROOM. DO NOT DISCUSS THE CASE UNLESS  
20 ALL 12 JURORS ARE PRESENT IN THE JURY ROOM.

21 WITH THAT, GO AHEAD, PLEASE.

22 MR. DELAHUNTY: THANK YOU, YOUR HONOR.

23 (MR. DELAHUNTY GAVE HIS CLOSING ARGUMENT ON BEHALF OF THE  
24 GOVERNMENT.)

25 MR. DELAHUNTY: AT ITS CORE, THIS IS A

1 STRAIGHTFORWARD CASE. IT'S ABOUT TWO DOCTORS, DR. BELCHER AND  
2 DR. GANESH, WHOSE LIVES ARE COMPLETELY ENMESHED WITH EACH  
3 OTHER, BOTH PROFESSIONALLY AND PERSONALLY, AND BOTH OF THOSE  
4 DOCTORS, FOR A NUMBER OF YEARS, HELPED EACH OTHER SUBMIT FALSE  
5 CLAIMS TO VARIOUS INSURANCE COMPANIES.

6 NOW, TURNING FIRST TO DR. GANESH'S PATIENTS, YOU HAVE  
7 HEARD THE TESTIMONY THAT DR. GANESH INSTRUCTED HER STAFF TO  
8 ALWAYS OR ALMOST ALWAYS SUBMIT CLAIMS TO INSURERS USING  
9 BASICALLY TWO CODES, 99245 AND 99215, REGARDLESS OF WHAT KIND  
10 OF CARE WAS PROVIDED.

11 HERE'S THE IMPORTANT PART. DR. BELCHER HELPED WITH THAT.

12 HOW DO YOU KNOW THAT? BECAUSE DR. BELCHER SAID THAT.  
13 DR. BELCHER TESTIFIED THAT FOR YEARS HE SUBMITTED -- THIS IS  
14 HIS WORD -- STACKS OF DR. GANESH'S -- HE WOULD GET STACKS OF  
15 THE SUPERBILLS -- AND YOU SAW THOSE, THOSE ARE THE PAGES WITH  
16 THE SORT OF COLORFUL MARKINGS ALL OVER THEM BY DR. GANESH --  
17 AND HE WOULD SUBMIT THOSE ELECTRONICALLY TO INSURERS. THAT'S  
18 HIS TESTIMONY.

19 NOW, TURNING TO DR. BELCHER'S PATIENTS, DR. BELCHER, RIGHT  
20 AROUND -- WELL, SHORTLY AFTER -- SO DR. BELCHER SAID THAT FROM  
21 2010 TO 2014.

22 NOW, RIGHT AROUND THE SAME TIME, DR. BELCHER SETS UP A  
23 PHYSICAL THERAPY PRACTICE. NOW, ONLY TWO DOCTORS GET TO HAVE  
24 THEIR PATIENTS SENT TO THIS PHYSICAL THERAPY PRACTICE,  
25 DR. GANESH AND DR. BELCHER. THAT'S IT. NO ONE ELSE GETS TO

1 REFER PATIENTS, WITH THE EXCEPTION OF ONE HERE OR THERE. THOSE  
2 ARE THE ONLY TWO DOCTORS SENDING PATIENTS THERE.

3 AND YOU'VE HEARD FROM THE INSURERS AND YOU'VE HEARD ABOUT  
4 WHAT WAS BILLED, AND THE COMMON THEME IS THAT, FIRST OF ALL,  
5 THERE'S MORE MASSAGE THERAPISTS AT THIS PHYSICAL THERAPY OFFICE  
6 THAN THERE ARE PHYSICAL THERAPISTS, AND THAT INSURERS ARE  
7 GETTING CLAIMS THAT LOOK THE SAME REGARDLESS OF WHETHER MASSAGE  
8 IS OFFERED OR PHYSICAL THERAPY IS OFFERED, AND YOU'VE HEARD  
9 TESTIMONY FROM THE INSURERS ABOUT WHETHER THEY WOULD PAY THAT.  
10 YOU'VE HEARD TESTIMONY FROM WITNESSES EVEN CALLED BY  
11 DR. BELCHER THAT IT'S COMMONLY NOT COVERED, THAT IS, MASSAGE IS  
12 COMMONLY NOT COVERED.

13 AND YOU'VE ALSO SEEN, WE WENT THROUGH ALL OF THESE  
14 PATIENTS, THE PROBLEMS IN THE BILLING ON THAT SIDE AS WELL, THE  
15 FALSE CLAIMS, THE WRONG DATES, THE BILLING ON THE WEEKENDS, THE  
16 SPLITTING OF CLAIMS FOR YEARS. YOU SAW THAT EVIDENCE. YOU SAW  
17 CALENDAR AFTER CALENDAR AFTER CALENDAR.

18 NOW, WHAT'S ALSO INTERESTING ABOUT THIS TIME PERIOD, 2010  
19 TO 2014, IS THAT RIGHT IN THE SAME TIME PERIOD, THE DOCTORS,  
20 TOGETHER, SET UP A NEW BANK ACCOUNT, IN FACT, TWO OF THEM RIGHT  
21 AROUND IN THE SAME WEEK, MAY 2011, WHERE THEY SET UP  
22 BANK OF AMERICA ACCOUNTS THAT ARE DOING BUSINESS AS  
23 KUHLMAN, RILEY & DEWEES.

24 NOW, THAT'S NOT ON OTHER BANK ACCOUNTS -- THAT'S BEEN  
25 COVERED -- IT'S ONLY ON THESE TWO NEW ONES AND THEY'RE BOTH SET

1 UP IN MAY OF 2011.

2 AND WHAT GOES INTO ONE OF THOSE, 8753? IT'S ALWAYS --  
3 IT'S ALMOST ALWAYS PAYMENTS FROM TWO INSURANCE COMPANIES,  
4 BLUE SHIELD OF CALIFORNIA AND ANTHEM.

5 WHAT'S SIGNIFICANT ABOUT THOSE TWO COMPANIES? THEY ARE  
6 COMPANIES THAT DR. GANESH WAS HAVING PARTICULAR PROBLEMS WITH  
7 IN TERMS OF PAYMENT.

8 THE MONEY THAT COMES INTO THAT ACCOUNT IS PAYABLE TO  
9 KUHLMAN, RILEY & DEWEES, BUT THEN ALL OF IT COMES OUT IN A  
10 SERIES OF CASHIER'S CHECKS.

11 AND WHAT ARE THOSE CASHIER'S CHECKS USED FOR? THEY'RE NOT  
12 USED FOR WHAT HAS BEEN COMMONLY DESCRIBED AS THE USE OF A  
13 CASHIER'S CHECK, LIKE A DOWN PAYMENT ON A HOUSE OR A VERY LARGE  
14 PAYMENT TO A CONTRACTOR OR A CAR. IT'S JUST USED TO SHUTTLE  
15 MONEY INTO ANOTHER ACCOUNT THAT IS ASSOCIATED WITH DR. BELCHER.

16 AND WHAT'S INTERESTING ABOUT THAT MOVEMENT OF MONEY IS  
17 THAT IT TAKES A LOT OF EFFORT. YOU HEARD THIS FROM  
18 DR. BELCHER. DR. BELCHER HAS TO GO TO BANK OF AMERICA, GET A  
19 CASHIER'S CHECK, THEN DRIVE THREE OR FOUR MILES TO  
20 BANK OF THE WEST, PUT IT INTO THE BANK OF THE WEST ACCOUNT, AND  
21 THEN ALMOST ALWAYS ON THE SAME DAY CUT THE CHECK TO THE PERSON  
22 THAT NEEDS THE MONEY.

23 SO ASK YOURSELF THIS: WHY DIDN'T DR. BELCHER JUST DO WHAT  
24 MOST PEOPLE WOULD DO, JUST GET A CHECKBOOK FROM 8753 AND WRITE  
25 A CHECK? WHY GO THROUGH ALL THIS TROUBLE? WHY DO THIS ONLY



1 WITH KRD FUNDS? THIS PATTERN DOESN'T HOLD ON OTHER ACCOUNTS.  
2 WHY IS IT ONLY DONE ON THIS ONE?

3 THE ANSWER IS STRAIGHTFORWARD. THE ANSWER IS, IT WAS DONE  
4 BECAUSE THERE WAS AN EFFORT TO CONCEAL THE SOURCE OF THE MONEY.  
5 THERE WAS AN EFFORT TO CONCEAL MONEY THAT WAS PAID TO  
6 KUHLMAN, RILEY & DEWEES, AND THAT IS THE, THE ESSENCE OF THE  
7 MONEY LAUNDERING COUNT. IT IS CONCEALING MONEY FROM THE HEALTH  
8 CARE FRAUD, WHICH IS THE FALSE CLAIMS SUBMITTED TO INSURERS.

9 AND THAT'S THE CASE BASICALLY IN A NUTSHELL. THAT'S IT.  
10 IN SOME WAYS, IT'S THAT SIMPLE.

11 BUT WHAT I'D LIKE TO DO FOR THE NEXT LITTLE BIT IS TALK  
12 ABOUT THE CHARGES IN THIS CASE, AND THE JUDGE HAS ALREADY  
13 INSTRUCTED YOU ON WHAT THOSE ARE AND THE ELEMENTS OF THOSE, AND  
14 I WON'T BELABOR THAT.

15 BUT I WILL INDICATE SORT OF THE KEY ELEMENTS OF THOSE  
16 CRIMES AND TALK ABOUT THE EVIDENCE THAT HAS COME INTO THIS  
17 TRIAL AND WHETHER -- AND SHOW YOU THAT IT SUPPORTS EACH ONE OF  
18 THOSE ELEMENTS BEYOND A REASONABLE DOUBT.

19 SO WHAT I WOULD LIKE TO DO FIRST IS TALK ABOUT THE  
20 CONSPIRACY TO COMMIT HEALTH CARE FRAUD, WHICH IS BASICALLY THE  
21 REAL CENTRAL PART OF THIS CASE.

22 MAY I ASK THE COURT TO INQUIRE THAT THESE ARE ALL ON THE  
23 SCREENS?

24 THE CLERK: IT SHOULD BE PUBLISHED.

25 THE COURT: ARE THE SCREENS WORKING?

1           OKAY, GO AHEAD.

2           MR. DELAHUNTY:   THANK YOU, YOUR HONOR.

3           NOW, THIS WHOLE INSTRUCTION WAS JUST READ TO YOU, AND I'M  
4 NOT GOING TO READ IT AGAIN, BUT THE KEY PARTS, THE TWO ELEMENTS  
5 OF THE CONSPIRACY TO COMMIT HEALTH CARE FRAUD ARE, FIRST, THAT  
6 THERE WAS AN AGREEMENT BETWEEN TWO OR MORE PERSONS, THE TWO  
7 PERSONS ARE THE TWO DOCTORS; AND, SECOND, THAT THE DEFENDANT  
8 BECAME A MEMBER OF THE CONSPIRACY KNOWING OF AT LEAST ONE OF  
9 ITS OBJECTS AND INTENDING TO HELP ACCOMPLISH IT.

10           AND THE AGREEMENT WAS, GOING BACK TO ONE, TO COMMIT HEALTH  
11 CARE FRAUD.   SO REALLY INCLUDED IN THIS IS HEALTH CARE FRAUD.  
12 THERE HAS TO BE AN AGREEMENT AND AN EFFORT BY BOTH OF THESE  
13 DEFENDANTS TO COMMIT HEALTH CARE FRAUD TOGETHER.

14           AND WHAT IS HEALTH CARE FRAUD?   AGAIN, I'M NOT GOING TO  
15 READ ALL OF THIS INSTRUCTION.   I WANT TO HIGHLIGHT THE  
16 ESSENTIAL ELEMENTS OF IT, WHICH ARE, FIRST, THAT THE DEFENDANT  
17 KNOWINGLY AND WILLFULLY EXECUTED, OR ATTEMPTED TO EXECUTE, A  
18 SCHEME OR PLAN TO DEFRAUD A HEALTH CARE BENEFIT PROGRAM, OR  
19 OBTAIN MONEY OR PROPERTY OWNED BY, OR UNDER THE CUSTODY OR  
20 CONTROL OF, A HEALTH CARE BENEFIT PROGRAM, BY MEANS OF MATERIAL  
21 FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS, OR PROMISES;

22           SECOND, THE DEFENDANT ACTED WITH INTENT TO DEFRAUD;

23           THIRD, WHAT HAS BEEN REFERRED TO AS THE BIG 5 INSURANCE  
24 COMPANIES IN THIS CASE WERE ALL HEALTH CARE BENEFIT PROGRAMS;  
25 AND

1           FOURTH, THE SCHEME OR PLAN WAS EXECUTED IN CONNECTION WITH  
2 THE DELIVERY OR PAYMENT FOR HEALTH CARE BENEFITS, ITEMS, OR  
3 SERVICES.

4           SO THOSE ARE THE ELEMENTS.

5           AND THE EVIDENCE IN THIS CASE, WHICH IS ALL THAT YOU  
6 SHOULD CONSIDER, HAS PROVEN THOSE.

7           SO FIRST I WANT TO TALK ABOUT DR. GANESH'S PATIENTS AND  
8 HOW THOSE CLAIMS WERE SUBMITTED AND WHAT THEY SHOWED AND WHAT  
9 YOU'VE LEARNED ABOUT THEM IN THIS TRIAL.

10           NOW, FIRST OF ALL, THE CLAIMS SUBMITTED REGARDING  
11 DR. GANESH'S PATIENTS WERE COMMONLY, IF NOT ALWAYS, FALSE. AND  
12 YOU KNOW THIS IN A NUMBER OF DIFFERENT WAYS. YOU'VE HEARD FROM  
13 A SERIES OF PATIENTS WHO HAVE TOLD YOU OVER AND OVER AGAIN THAT  
14 THEY WEREN'T SEEN AS OFTEN AS IS REFLECTED IN THE BILLING  
15 CALENDARS. THOSE WERE THE CALENDARS THAT HAD THE BLUE AND RED  
16 BOXES. AND YOU GOT TO SEE THOSE CALENDARS AND YOU GOT TO  
17 COMPARE THEM AGAINST OTHER DOCUMENTS, SUCH AS PATIENT RECORDS  
18 AND THE GOOGLE CALENDAR -- EXCUSE ME. IT WAS NOT THE GOOGLE  
19 CALENDAR WITH DR. GANESH'S PATIENTS.

20           SO THAT'S ONE WAY TO KNOW THE CLAIMS WERE FALSE.

21           TWO, YOU'VE HEARD -- YOU'VE SEEN THAT A LOT OF THESE  
22 CLAIMS FALL ON WEEKENDS AND HOLIDAYS AND YOU'VE HEARD THE STAFF  
23 SAY OVER AND OVER AND OVER AGAIN THAT THE OFFICE WASN'T OPEN ON  
24 THE WEEKENDS AND THEY WEREN'T WORKING ON THE WEEKENDS.

25           THREE -- YOU'VE HEARD DR. GANESH SAY THIS -- THE CLAIMS

1 ARE ALMOST ALWAYS SUBMITTED WITH JUST TWO CPT CODES, 99215 AND  
2 99245, NOT COINCIDENTALLY, THE TWO HIGHEST REIMBURSEMENT CODES.

3 AGAIN, IT'S NOT THE TWO LOWEST OR THE TWO IN THE MIDDLE.  
4 IT'S ALWAYS THE TWO HIGHEST ONES OVER AND OVER AND OVER AGAIN.  
5 STAFF MEMBERS DESCRIBED BEING INSTRUCTED TO SUBMIT CLAIMS ONLY  
6 USING THOSE TWO.

7 AND YOU ALSO KNOW THAT THIS WAS THE PATTERN BECAUSE WHEN  
8 YOU LOOK AT THE CLAIM SUBMITTED AND THE HISTORY OF THAT,  
9 IT'S -- THAT'S WHAT IT SHOWS. IT'S OVERWHELMING.

10 AND IF WE COULD PLEASE SWITCH TO THE COMPUTERS,  
11 MADAM COURTROOM DEPUTY.

12 THE CLERK: YES, COUNSEL. IT SHOULD BE SWITCHED.

13 MR. DELAHUNTY: THANK YOU.

14 AND I DON'T -- I'M NOT GOING TO SHOW YOU EVERY  
15 SPREADSHEET -- THERE'S A LOT IN THIS CASE -- BUT LET'S LOOK AT  
16 ONE OF THEM.

17 LET'S LOOK AT A CIGNA SPREADSHEET. AND, FOR EXAMPLE, IF  
18 WE PULL THAT UP, AND IF WE CAN GO TO THE COLUMN THAT INDICATES  
19 THE PROCEDURE CODE AD AND JUST FOLLOW ON THAT ONE, AND  
20 THERE'S -- CAN WE ALSO COMPARE THAT TO THE DATE OF SERVICE?  
21 THAT'S THE FIRST DATE OF SERVICE.

22 SO IF YOU'LL NOTICE, THE CODES HERE IN 2011 START BECOMING  
23 OVERWHELMINGLY 99245.

24 CAN WE JUST KEEP SCROLLING, PLEASE?

25 OKAY. THANK YOU. CAN WE TAKE THAT DOWN, PLEASE?

1 SO THAT'S CONSISTENT WITH WHAT DR. GANESH INDICATED. IT'S  
2 CONSISTENT WITH WHAT THE STAFF INDICATED.

3 AND FINALLY, DR. GANESH FREQUENTLY BILLED AT LEAST TWO OF  
4 THE INSURANCE COMPANIES AS IF DR. DEWEES WAS THE DOCTOR  
5 PROVIDING CARE. THIS IS ANOTHER KEY WAY IN WHICH THE CLAIMS  
6 WERE FALSE, PARTICULARLY WITH TWO INSURERS, ANTHEM AND  
7 BLUE SHIELD.

8 DR. DEWEES, AS YOU LEARNED IN THIS TRIAL, LEFT THE  
9 PRACTICE RIGHT AROUND 2006. HE WASN'T ASSOCIATED WITH IT.

10 NOW, THIS IS DIFFERENT THAN WHAT HAS BEEN DESCRIBED TO YOU  
11 BY THE DEFENDANTS AS THE BRAND KRD. THIS IS THE DOCTOR. THIS  
12 IS THE ONE WHO THE BILL CLAIMS IS PROVIDING THE CARE, THE  
13 DOCTOR IN THE ROOM. THESE CLAIMS FREQUENTLY INDICATE THAT  
14 DR. DEWEES IS THE DOCTOR PROVIDING THE CARE FOR DR. GANESH'S  
15 PATIENTS.

16 THAT'S NOT ACCURATE. THAT'S NOT TRUE. DR. DEWEES HAD  
17 LONG SINCE LEFT.

18 WHEN YOU LOOK AT THESE CLAIMS, AND WE'LL GO THROUGH SOME  
19 OF THEM LATER, THEY COMMONLY SHOW DR. DEWEES AS THE TREATING  
20 PHYSICIAN IN 2011, 2012, 2013. THAT IS NOT TRUE AND THAT IS  
21 FALSE.

22 ONE OF THE ELEMENTS IN HEALTH CARE FRAUD IS THAT THE  
23 FALSITY IS MATERIAL. THAT MEANS THAT IT INDUCED AN ACTION FROM  
24 THE PERSON THAT THE FALSITY WAS PRESENTED TO.

25 YOU'VE HEARD THE TESTIMONY FROM THE INSURERS. THEY'VE

1 ALL, ONE AFTER THE OTHER, SAID THAT EACH OF THESE FALSITIES, IF  
2 THEY HAD KNOWN THE TRUE FACTS, THEY WOULD NOT HAVE PAID THE  
3 CLAIM.

4 THAT MEANS THAT THE FALSITY IS MATERIAL. IT IS HAVING AN  
5 INFLUENCE ON WHETHER OR NOT THEY PAID THE CLAIM.

6 SO WHAT DID THE DOCTORS KNOW? THERE COULD BE NO QUESTION  
7 THAT THE CLAIM IS FALSE. THERE COULD BE NO QUESTION THAT THE  
8 CLAIM IS MATERIAL. SO DID THE DOCTORS KNOW THESE CLAIMS WERE  
9 FALSE? AND THE ANSWER TO THAT IS UNEQUIVOCALLY YES.

10 WELL, FIRST, DR. GANESH KNEW WHAT WAS HAPPENING. SHE --  
11 SHE INSTRUCTED HER STAFF TO USE THESE TWO CPT CODES ALMOST ALL  
12 THE TIME.

13 DR. BELCHER ALSO KNEW THIS WAS HAPPENING. NOW, THERE'S A  
14 NUMBER OF DIFFERENT WAYS THAT INDICATE THIS. FIRST, HE HAD  
15 TESTIFIED THAT HE WAS SUBMITTING THESE CLAIMS ELECTRONICALLY  
16 FROM 2010 TO 2014 BY GETTING A STACK OF SUPERBILLS AND THEN  
17 INPUTTING WHAT'S ON THE SUPERBILL TO THE INSURANCE COMPANIES.

18 AND WHAT'S INTERESTING ABOUT THAT IS IF YOU RECALL THE  
19 TESTIMONY OF CINDY JAMISON, WHO SAID SHE DIDN'T HAVE A  
20 BACKGROUND AS A CODER, THAT MEANS SHE WAS MORE LIMITED AS A  
21 PROFESSIONAL BILLER IN TERMS OF KNOWING EXACTLY WHAT THE CODES  
22 MEAN AND TRAINING ON THAT, SHE SAID IT WAS OBVIOUS TO HER THAT  
23 THERE WERE PROBLEMS AND WHAT SHE DESCRIBED AS RED FLAGS, THE  
24 PATTERNS THAT AN INSURANCE COMPANY MAY INTERPRET AS FRAUD. SHE  
25 FOUND THAT OBVIOUS AND SHE'S NOT EVEN A DOCTOR. BUT SHE COULD

1 TELL JUST BY SUBMITTING THESE CLAIMS THAT THEY WERE  
2 PROBLEMATIC.

3 DR. GANESH -- EXCUSE ME. DR. BELCHER IS A DOCTOR. AND AS  
4 YOU RECALL, WHEN HE TESTIFIED, HE INDICATED -- AND HE WAS HAPPY  
5 TO DO THIS -- THAT HE WAS QUITE ADAPT AT SPOTTING PATTERNS,  
6 THAT THAT WAS A HALLMARK OF A VERY GOOD DOCTOR IS THE ABILITY  
7 TO SPOT PATTERNS.

8 THIS PATTERN ISN'T HARD TO SPOT. YOU GET A STACK OF  
9 DOCUMENTS AND EVERY ONE OF THEM SAYS 99215 AND 99245? PRETTY  
10 EASY PATTERN TO SPOT, PARTICULARLY WHEN YOU'RE SEEING THAT  
11 PATTERN FOR YEARS.

12 SO THERE'S NO QUESTION THAT HE KNEW WHAT WAS HAPPENING.

13 AND ON TOP OF THAT, DR. BELCHER TESTIFIED THAT HE KNEW THE  
14 PROPER USE OF 99245. HE TALKED ABOUT WHEN HE USED IT AND SAID  
15 "I HAVE USED THAT CODE, IT WAS FOR AN HOUR AND A HALF TO TWO  
16 HOUR CONSULTATION, AND I BELIEVE THAT WAS THE APPROPRIATE USE."

17 SO HE KNEW THAT CLAIMS WERE BEING SUBMITTED, WHAT THEY  
18 LOOKED LIKE, AND WHAT THE PROPER USE OF 99245 WAS.

19 YOU HEARD DR. GANESH TESTIFY THAT, WELL, SHE COULDN'T  
20 POSSIBLY KNOW WHAT THESE CODES MEAN BECAUSE NO ONE EVER TOLD  
21 HER.

22 NOW, YOU KNOW THAT'S ALSO NOT TRUE. IN FACT, EXHIBIT  
23 10110A ACTUALLY -- IF WE CAN PULL THAT UP, PLEASE -- EXCUSE ME,  
24 110A -- YOU WERE SHOWN THIS LETTER. IT'S FROM -- CAN WE -- I'M  
25 NOT SURE WHY THAT'S SO BLURRY. CAN WE ZOOM IN ON THE TOP HALF,

1 PLEASE.

2 SO THERE'S THE DATE OF THE LETTER, JANUARY 17TH, 2013, TO  
3 CAMPBELL MEDICAL GROUP, ADDRESSED SPECIFICALLY TO DR. GANESH.

4 AND THEN IF WE CAN GO DOWN TO THE THIRD AND FOURTH  
5 PARAGRAPH, PLEASE.

6 AND THIS LETTER READS, "BASED ON A PRELIMINARY REVIEW OF  
7 THE BILLING FROM YOUR OFFICE, WE ARE CONCERNED WITH YOUR  
8 BILLINGS OF CPT CODE 99245. THIS CODE IS DEFINED IN THE  
9 CURRENT PROCEDURAL TERMINOLOGY (CPT) BOOK AS AN EXAMPLE OF  
10 'OFFICE CONSULTATION FOR A NEW OR ESTABLISHED PATENT AND  
11 REQUIRES THESE THREE COMPONENTS,'" AND THEN IT LISTS THE THREE  
12 COMPONENTS THAT THE INSURANCE COMPANIES OVER AND OVER AGAIN  
13 DESCRIBED WAS THEIR UNDERSTANDING OF WHEN THAT CODE SHOULD BE  
14 USED APPROPRIATELY.

15 THAT IS A CLEAR INDICATOR THAT DR. GANESH WAS, IN FACT,  
16 INFORMED AT LEAST ONCE OF WHAT THE CPT CODE MEANS. IT IS NOT  
17 TRUE THAT DR. GANESH WAS NEVER INFORMED OR EDUCATED ON WHAT  
18 THESE CODES MEAN. THAT IS NOT TRUE.

19 CAN WE TAKE THAT DOWN, PLEASE?

20 YOU HAVE OTHER REASONS TO CONCLUDE THAT THE DOCTORS KNEW  
21 WHEN THESE CODES SHOULD BE USED AND THAT THE USE OF THEM WAS  
22 IMPROPER FOR GANESH'S PATIENTS.

23 YOU HEARD ABOUT THE LAWSUIT WITH LORI LANDIS. IT WAS  
24 PROTRACTED, BOTH DOCTORS GOT INVOLVED AT SOME POINT,  
25 DR. BELCHER WAS DEPOSED AND YOU HEARD PARTS OF THAT DEPOSITION.



1 AND IN THAT LAWSUIT, THERE WERE ALLEGATIONS OF IMPROPER  
2 BILLING. IN FACT, MS. JAMISON SUBMITTED A DECLARATION OF HER  
3 OWN RAISING THOSE CONCERNS.

4 NOW, YOU DID HEAR TESTIMONY FROM DR. BELCHER THAT, DESPITE  
5 WORKING WITH DR. GANESH AND LIVING WITH HER AND BEING MARRIED  
6 TO HER AND DESPITE CONSIDERING LORI LANDIS A MEMBER OF THE  
7 FAMILY AND KNOWING HER AND TRUSTING HER FOR A NUMBER OF YEARS,  
8 HIS TESTIMONY WAS, "I STAYED ABOVE AND DIDN'T GET INVOLVED IN  
9 THIS."

10 THAT'S NOT CREDIBLE. THAT IS HIS TESTIMONY, BUT YOU CAN  
11 EVALUATE THE CREDIBILITY OF THAT. YOU CAN EVALUATE, IS IT  
12 REALLY CREDIBLE THAT DR. BELCHER DIDN'T ASK HIS WIFE OR HIS  
13 LONG TIME BILLER WHO HE CONSIDERED A MEMBER OF THE FAMILY,  
14 "HEY, WHAT'S GOING ON IN THIS LAWSUIT? WHAT'S THE DISPUTE  
15 ABOUT?"

16 HOW IS THAT CREDIBLE THAT DR. BELCHER REALLY NEVER ASKED  
17 ANYONE ABOUT THIS?

18 YOU KNOW WHAT? DR. BELCHER WAS CAREFUL TO SAY THAT HE  
19 NEVER ASKED GOING INTO THE LAWSUIT OR HIS DEPOSITION.

20 REGARDLESS, IT DEFIES COMMON SENSE TO BELIEVE THAT AFTER  
21 THE DEPOSITION DR. BELCHER DIDN'T MAKE AN INQUIRY, OR AFTER THE  
22 SETTLEMENT HE DIDN'T MAKE AN INQUIRY TO SOMEBODY, "HEY, WHAT'S  
23 GOING ON WITH THIS?"

24 AND YOU'LL RECALL THAT WHEN ALL WAS SAID AND DONE AND THEY  
25 SETTLED THE LAWSUIT, DR. BELCHER WENT AND APOLOGIZED TO

1 MS. LANDIS. WHY WOULD HE APOLOGIZE IF HE DIDN'T HAVE A BASIC  
2 INKLING OF WHAT HAPPENED AND WHAT WAS GOING ON THERE?

3 THAT LAWSUIT PUTS BOTH THESE DOCTORS ON NOTICE THAT THESE  
4 CLAIMS ARE IMPROPER AND THERE'S REASON TO BE CAUTIOUS AND TO  
5 RETHINK WHAT'S GOING ON, AND THAT'S ALL THE WAY BACK IN '06 AND  
6 '08.

7 AND YOU HAVE SEEN THESE CLAIMS. THIS PATTERN JUST WENT ON  
8 FOR YEARS. WE'RE NOT TALKING ABOUT A LAPSE IN JUDGMENT OF  
9 THREE MONTHS. WE ARE TALKING ABOUT A PATTERN THAT PERSISTED  
10 ALMOST TEN YEARS FROM WHEN GANESH TOOK OVER THIS PRACTICE RIGHT  
11 UP UNTIL SHE WAS INTERVIEWED BY THE FBI IN 2015. THAT'S A LONG  
12 TIME.

13 AND FINALLY, IT ALSO JUST DEFIES COMMON SENSE THAT,  
14 REGARDLESS OF THE CODE USED, THAT THESE PATIENTS WERE BEING  
15 SEEN 10 OR 15 TIMES A MONTH IN A LOT OF INSTANCES. YOU HEARD  
16 FROM THE PATIENTS THEMSELVES, MS. FRUGOLI, MS. MICHAEL, THAT  
17 SHE'S NOT SEEN -- NEITHER ONE OF THOSE TWO PATIENTS WERE SEEING  
18 DR. GANESH THAT OFTEN, THAT THAT'S AN INCREDIBLY TROUBLING  
19 HEALTH HISTORY IF YOU HAVE TO GO IN TO SEE YOUR DOCTOR 10 TO 15  
20 TIMES A MONTH, BUT YET YOU DID SEE THAT OVER AND OVER AGAIN  
21 WITH DR. GANESH'S PATIENTS.

22 SO REGARDLESS OF THE CPT CODE USED, WHEN THAT AMOUNT OF  
23 CLAIMS IS BEING SUBMITTED AND BOTH DOCTORS ARE DIRECTING THE  
24 SUBMISSION OF THOSE CLAIMS, THAT'S ANOTHER INDICATOR THAT  
25 THEY'RE FALSE, AND THE PERSON INVOLVED IN THE SUBMISSION OF

1 THOSE CLAIMS SHOULD KNOW THEY ARE FALSE.

2 NOW, THE QUESTION IS ALSO, DID THEY WILLFULLY DO THIS?  
3 THAT IS, DID THEY DO IT KNOWING WHAT THEY WERE DOING WAS  
4 IMPROPER?

5 AGAIN, THE ANSWER IS YES, OF COURSE THEY KNEW IT WAS  
6 IMPROPER.

7 WELL, FIRST OF ALL, THEY'D BEEN PUT ON NOTICE THROUGH  
8 MS. LANDIS, LORI LANDIS'S LITIGATION.

9 AND SECOND, AND PERHAPS MOST IMPORTANTLY, AND THIS WAS --  
10 YOU KNOW, THIS WAS BELABORED IN THE TRIAL, BUT IT'S AN  
11 IMPORTANT POINT. EVERY TIME A CLAIM IS SUBMITTED TO A HEALTH  
12 CARE INSURANCE PROVIDER, EVERY TIME ON ONE OF THOSE HCFA 1500  
13 FORMS -- AND WE LOOKED AT IT A LOT, IT'S EXHIBIT 143 -- WHEN  
14 YOU SUBMIT THE CLAIM, YOU ARE ATTESTING THAT EVERYTHING IS  
15 ACCURATE AND THAT THERE IS A PENALTY AND THE POTENTIAL OF  
16 CRIMINAL CHARGES IF IT IS NOT ACCURATE. THAT'S THE AGREEMENT  
17 THAT IS MADE BY A PERSON SUBMITTING A CLAIM TO A HEALTH CARE  
18 INSURANCE COMPANY.

19 THAT IS ANOTHER INSTANCE OF THESE TWO DOCTORS BEING PUT ON  
20 NOTICE, YOU'VE GOT TO GET IT RIGHT. AND IN THIS WORLD, IT'S  
21 VERY IMPORTANT TO GET IT RIGHT AND IT EXPOSES YOU TO CRIMINAL  
22 LIABILITY. AND THEY DEFIED THAT OVER AND OVER AND OVER AGAIN.  
23 THAT'S THE DOCTORS WORKING TOGETHER ON THE GANESH PATIENTS.

24 THERE IS ALSO AN AGREEMENT, AN EFFORT TO SUBMIT FALSE  
25 CLAIMS ON DR. BELCHER'S PATIENTS, AND I'M LIMITING THAT TO HIS

1 PHYSICAL THERAPY PATIENTS.

2 AGAIN, AT RIGHT AROUND THE SAME TIME THAT THESE BANK  
3 ACCOUNTS ARE OPENED AND THE KRD D.B.A. IS IDENTIFIED IN THE  
4 BANK ACCOUNTS, DR. BELCHER OPENS HIS PHYSICAL THERAPY PRACTICE.

5 AND WHAT'S HAPPENING THERE IS THAT HE'S NOT TAKING  
6 REFERRALS FROM OTHER DOCTORS -- AND I MENTIONED SOME OF THIS  
7 ALREADY. HE'S NOT TAKING REFERRALS FROM OTHER DOCTORS. HE IS  
8 TAKING THEM FROM DR. GANESH WHO IS RECOMMENDING HER PATIENTS TO  
9 GO GET A MASSAGE, AND -- EXCUSE ME -- HE'S NOT TAKING CO-PAYS.

10 SO WE'LL COME BACK TO THE SIGNIFICANCE OF THAT, BUT BOTH  
11 DOCTORS ARE SENDING PATIENTS THERE AND THEY'RE THE ONLY TWO  
12 THAT DO THIS WITH ANY REGULARITY.

13 AND YOU HAVE SEEN THE CLAIMS SUBMITTED ON PHYSICAL THERAPY  
14 AND MASSAGE THERAPY. YOU HAVE SEEN OVER AND OVER AGAIN THAT  
15 THEY ARE FALSE A NUMBER OF TIMES. IT'S NOT A ONSIE-TWOSIE  
16 FALSE THING. IT'S NOT, OH, IT HAPPENED A COUPLE TIMES,  
17 EVERYONE MAKES MISTAKES KIND OF THING.

18 YOU SAW MS. MICHAEL'S CALENDAR. YOU SAW THAT PATTERN  
19 PERSIST FOR ALMOST A YEAR OF CONSTANTLY SPLITTING UP THE DOUBLE  
20 FRIDAY VISITS INTO THURSDAY/FRIDAY OVER AND OVER AND OVER  
21 AGAIN. MS. MICHAEL WAS NOT SEEN ON THE THURSDAYS, BUT ALWAYS  
22 HER INSURANCE COMPANY WAS BILLED ON THE THURSDAYS. YOU SAW,  
23 FOR EXAMPLE, THAT WHOLE MONTH OF APRIL 2013, JUST THE EXACT  
24 SAME PATTERN ON THE FRIDAY DOUBLE VISIT, BUT SPLIT IT ON  
25 THURSDAY/FRIDAY.

1           YOU SAW THE SPLITTING OF CLAIMS WITH OTHER PATIENTS AS  
2 WELL. YOU SAW IT WITH HABIBI, YOU SAW IT WITH BONTE, YOU HEARD  
3 DR. BELCHER'S TESTIMONY ABOUT IT HAPPENING IN 2012, 2013, 2014.

4           YOU SAW THAT THERE WERE PATIENT -- THERE WERE BILLINGS FOR  
5 PHYSICAL THERAPY ON THE WEEKENDS AS WELL AND MAJOR HOLIDAYS.

6           THERE'S NO QUESTION FROM THE STAFF THAT THEY WEREN'T THERE  
7 ON A WEEKEND. MS. CABRAL WAS NOT OFFERING PHYSICAL THERAPY ON  
8 WEEKENDS.

9           AND DR. BELCHER IS ASKING YOU TO BELIEVE THAT SOMETIMES HE  
10 WAS THE GUY IN THE OFFICE DOING PHYSICAL THERAPY. BUT, AGAIN,  
11 IS THAT CREDIBLE? CAN YOU BELIEVE THAT?

12           YOU HEARD FROM DR. BELCHER, HE'S ALWAYS DOING SOMETHING.  
13 HE'S DOING SURGERY 12, 13 HOURS A DAY; HE'S AT THE OFFICE ALL  
14 THE WEEKENDS; HE'S DOING SURGICAL CONSULTATIONS ON THE  
15 WEEKENDS; HE'S ALSO GOT THE ORTHOPEDIC PRACTICE, OR CONSULTING  
16 COMPANY GOING; HE'S GOT VARIOUS COMMUNITY COMMITMENTS AND  
17 FAMILY COMMITMENTS.

18           AND NO ONE DISAGREES THAT THIS IS A TOP NOTCH SURGEON, SO  
19 YOU HAVE TO ASK YOURSELF, IS A TOP NOTCH SURGEON REALLY  
20 SPENDING THEIR TIME ON THE WEEKENDS DOING AN HOUR OF PHYSICAL  
21 THERAPY THAT FREQUENTLY WHEN HE'S GOT A WHOLE STAFF TO DO IT?

22           AND THAT IS IMPLAUSIBLE. THAT CANNOT BE CREDITED.

23           YOU ALSO HEARD ANOTHER, AND HAVE SEEN, ANOTHER TYPE OF  
24 FALSITY THAT WAS PRETTY COMMON IN DR. BELCHER'S PHYSICAL  
25 THERAPY PRACTICE, WHICH WAS THESE BOOT CAMPS. RIGHT IN THE

1 MIDDLE OF THE DAY, BOOT CAMP IS BEING OFFERED BY MS. CABRAL AND  
2 PATIENTS -- INSURERS ARE BEING BILLED AS IF THAT'S PHYSICAL  
3 THERAPY. YOU HEARD THIS WITH MS. HABIBI'S TESTIMONY WHEN  
4 MS. CHUNG ASKED HER, "OKAY, YOU WEREN'T THERE ON THAT DAY, BUT  
5 THERE WAS A BOOT CAMP THAT DAY. IS IT POSSIBLE -- WASN'T IT  
6 POSSIBLE YOU WERE AT BOOT CAMP?"

7 DO YOU REMEMBER THAT TESTIMONY?

8 AND IT WASN'T LIKE THAT BOOT CAMP JUST HAPPENED, YOU KNOW,  
9 ONCE. WE CAN LOOK AT THIS. IT WAS OFFERED FOR QUITE A WHILE.

10 IF WE CAN PULL UP SOME OF THESE, PLEASE, AT 44-31. EXCUSE  
11 ME. IF WE CAN GO TO 44-84, PLEASE.

12 IF WE CAN GO BACK.

13 THERE'S BOOT CAMP. THERE'S BOOT CAMP. THIS IS JULY OF  
14 2013.

15 IF WE CAN GO TO 87, PLEASE.

16 THERE'S BOOT CAMP AGAIN.

17 GO TO 90, PLEASE.

18 THERE'S BOOT CAMP AGAIN.

19 93.

20 THERE'S BOOT CAMP AGAIN.

21 102, 105, 144. ACTUALLY, IT'S OVER HERE. IT'S ON THE  
22 MONDAY AND WEDNESDAY OF THAT DAY.

23 IF WE CAN GO TO -- I'M NOT GOING TO BELABOR THIS. THERE  
24 ARE OTHER -- THERE ARE WEEKS AND WEEKS OF THIS.

25 NOW, I WANT TO COME BACK TO THIS ISSUE OF SPLITTING THE

1 CLAIMS ON THURSDAYS AND FRIDAYS OR WHATEVER IT WAS. SOMETIMES  
2 IT WASN'T ALWAYS A DOUBLE VISIT ON A FRIDAY, BUT COMMONLY IT  
3 WAS A DOUBLE VISIT ON FRIDAY AND SPLIT IT INTO THURSDAY/FRIDAY.  
4 WHY DO THIS? WHY DO THAT?

5 WELL, WHAT'S THE MOST LIKELY EXPLANATION OF DOING THAT?  
6 THE MOST LIKELY EXPLANATION IS THAT DR. BELCHER DIDN'T WANT TO  
7 SUBMIT A CLAIM IN WHICH IT LOOKED LIKE TWO PHYSICAL THERAPY  
8 PRACTICES WERE OFFERED ON A FRIDAY OR HAVE TO EXPLAIN THAT, NO,  
9 IN FACT, IT WAS PHYSICAL THERAPY AND THEN A MASSAGE.

10 THIS IS A DELIBERATE EFFORT TO CONCEAL THE TRUE FACTS FROM  
11 THE INSURANCE COMPANIES, TO PUT IT ON TWO DIFFERENT DAYS SO  
12 THAT IT DECREASES THE SCRUTINY, THERE'S LESS TO ASK ABOUT,  
13 HIGHER LIKELIHOOD OF BEING PAID. THAT'S THE REASON TO DO IT  
14 FOR YEARS.

15 I MEAN, THE ALTERNATIVE THAT YOU'RE ASKED TO BELIEVE IS  
16 THAT DR. BELCHER, WHO, YOU KNOW, INDICATES THAT HE HAS TOTAL  
17 COMMAND OF BILLING, TALKED ABOUT HOW EASY IT WAS FOR HIM TO  
18 LEARN AND HOW HE'S NOT GOING TO USE A BILLER BECAUSE HE FINDS  
19 IT PRETTY STRAIGHTFORWARD, SOMEHOW IS UNDER THE FALSE  
20 IMPRESSION FOR YEARS THAT THIS WAS THE CORRECT WAY TO DO IT,  
21 AND ONLY, I THINK HE SAID IN 2013, SOMEONE TOLD HIM, "HEY, YOU  
22 KNOW WHAT? YOU'VE GOT TO ACCURATELY LIST THE DAY THAT SOMEBODY  
23 WAS SEEN. YOU CAN'T SORT OF FALSIFY THE DAYS THEY WERE SEEN."

24 THAT DEFIES COMMON SENSE. THAT IS NOT CREDIBLE THAT  
25 SOMEONE THIS ACCOMPLISHED AND COMPETENT NEEDED TO BE TOLD THAT

1 YOU'VE GOT TO BE ACCURATE WHEN CLAIMING SERVICES.

2 DR. BELCHER KNEW WHAT HE WAS DOING.

3 AND THE FACT THAT THERE ARE MYRIAD FALSE CLAIMS IN THE  
4 PHYSICAL THERAPY, I DON'T THINK THIS IS REALLY DISPUTED. IF  
5 YOU'LL RECALL, COUNSEL FOR DR. BELCHER THREW UP ON THE MONITORS  
6 A SERIES OF GOOGLE CALENDARS AND THE BILLING RECORDS FOR A  
7 COUPLE PATIENTS AND SAID -- THESE WERE THE QUOTES -- FOR  
8 EXAMPLE, ANTHONY BONTE, "THE DATES DON'T MATCH UP, DO THEY?"  
9 REFERRING TO THE GOOGLE CALENDAR AND WHAT WAS ACTUALLY BILLED.

10 AND WHEN MS. HABIBI TESTIFIED, SAME QUESTIONS. THE QUOTE  
11 WAS, "THE DATES DON'T QUITE MATCH UP." THESE ARE MS. CHUNG'S  
12 QUESTIONS TO THE PATIENTS ABOUT THE DISCREPANCIES BETWEEN THE  
13 GOOGLE CALENDAR AND WHEN THE PATIENTS WERE BILLED.

14 AND THERE COULD BE NO EFFORT TO DISCREDIT THE GOOGLE  
15 CALENDAR AS BEING THE ACCURATE OR DEFINITIVE REPRESENTATION OF  
16 WHEN PEOPLE WERE THERE. MS. CABRAL WAS CROSS-EXAMINED ON THIS  
17 AND VERY PROUD OF THE ACCURACY OF THAT GOOGLE CALENDAR AND ALL  
18 OF THE WORK SHE HAD DONE TO MAKE SURE IT WAS ACCURATE.

19 AND A COUPLE TIMES DEFENSE COUNSEL TRIED TO SORT OF SHOW  
20 THAT THE GOOGLE CALENDAR WAS WRONG BY PUTTING UP A PATIENT  
21 CHART AND SAYING, HA, THE GOOGLE CALENDAR HAS A DIFFERENT DAY  
22 THAT'S ON THE PATIENT CHART, AS IF THAT SORT OF MEANT THAT THE  
23 GOOGLE CALENDAR WAS WRONG.

24 BUT YOU KNOW WHAT HAPPENED? WHEN WE WENT AND LOOKED AT  
25 ONE OTHER PIECE OF EVIDENCE, WE LOOKED AT THE GOOGLE CALENDAR,



1 THE SIGN-IN SHEETS, AND THE PATIENT CHART, YOU KNOW WHAT AGREED  
2 WITH EACH OTHER? IT WAS THE SIGN-IN SHEETS AND THE GOOGLE  
3 CALENDAR. IT WAS THE PATIENT CHART THAT WAS FALSE. THAT  
4 GOOGLE CALENDAR IS EXTREMELY RELIABLE, AND WHEN THAT GOOGLE  
5 CALENDAR IS COMPARED TO WHAT WAS BILLED, IT SHOWS OVER AND OVER  
6 FALSE CLAIMS ON DR. BELCHER'S PATIENTS AND PHYSICAL THERAPY.

7 THE OTHER TYPE OF FALSITY IN THESE CLAIMS IS THAT THEY  
8 ARE -- IT'S MASSAGE THERAPY THAT'S BEING OFFERED. IT'S NOT  
9 PHYSICAL THERAPY. AND AS MUCH AS DR. BELCHER WANTS TO  
10 CHARACTERIZE IT AS PHYSICAL THERAPY, AT THE END OF THE DAY,  
11 IT'S NOT A PHYSICAL THERAPIST OFFERING IT. IT'S A MASSAGE  
12 THERAPIST WITHOUT THE ACCREDITATION, IN A DIFFERENT ROOM, IT'S  
13 TREATED DIFFERENTLY, AND THEY'RE DIFFERENT EMPLOYEES THAT DO  
14 THIS.

15 AND YOU -- AND YOU HAVE HEARD FROM ALL KINDS OF PATIENTS  
16 WHO HAVE INDICATED IT'S PRETTY COMMON KNOWLEDGE THAT MASSAGE  
17 THERAPY ISN'T COVERED. YOU HEARD THIS FROM ALL OF THE  
18 INSURERS, I THINK, AND REALLY MOST TELLINGLY ON THIS, YOU HEARD  
19 FROM DR. HARIRI, WHO WAS CALLED BY DR. BELCHER TO TESTIFY, LONG  
20 TIME COLLEAGUE OF HIM, HAD A LOT OF RESPECT FOR DR. BELCHER,  
21 AND SHE SAID THAT WHEN SHE WAS FIRST ASKED BY DR. BELCHER'S  
22 ATTORNEYS ABOUT DOES SHE SEND PATIENTS TO HER -- HER SURGICAL  
23 PATIENTS TO GET MASSAGE THERAPY? SHE SAID, "NO, BECAUSE IT'S  
24 NOT USUALLY COVERED. I GIVE THEM A CARD AND IF THEY WANT TO  
25 PURSUE IT THEMSELVES, I DO THAT."

1           AND THEN THAT WAS KIND OF WALKED BACK A LITTLE BIT. BUT,  
2           REMEMBER, IT WAS WALKED BACK AFTER MR. -- DR. HARIRI MET WITH  
3           DR. BELCHER'S COUNSEL AT BREAK.

4           ARE THESE FALSITIES MATERIAL? YES. YOU HEARD FROM THE  
5           INSURERS. YOU HEARD FROM THEM AND THEY TESTIFIED THAT IF THEY  
6           HAD KNOWN THAT IT WAS ONLY A MESSAGE TAKING PLACE WITH A  
7           MESSAGE THERAPIST, THEY WOULDN'T HAVE PAID IT UNLESS PARTICULAR  
8           TWO CODES WERE USED -- WHICH THEY WEREN'T AND WE'LL LOOK AT THE  
9           DEFINITION OF BENEFITS, OR -- AND THEY WOULD NOT HAVE PAID IF  
10          NO ONE WAS EVEN SEEN THAT DAY, WHICH I THINK IS FAIRLY OBVIOUS  
11          AND NOT DISPUTED. BUT THAT WAS THEIR TESTIMONY AND THEY'VE  
12          INDICATED THAT THESE FALSITIES ARE MATERIAL.

13          SO WHAT'S DR. BELCHER'S KNOWLEDGE ON THIS? I'VE TOUCHED  
14          UPON IT. IT'S -- AND I -- YOU KNOW, IT'S A COMMON PATTERN.  
15          IT'S THE WEEKEND NOT BEING OPEN. IT'S JUST COMMON KNOWLEDGE IN  
16          THE INDUSTRY THAT MASSAGE THERAPY IS NOT COVERED. HE'S GOT TO  
17          KNOW THAT AS MUCH AS ANYONE ELSE.

18          BUT INDICATIVE OF DR. BELCHER'S KNOWLEDGE HERE IS THE  
19          EFFORT TO DISGUISE WHAT WAS ACTUALLY HAPPENING. THAT INDICATES  
20          THAT HE KNEW THAT THESE CLAIMS WEREN'T COVERED. SPLITTING THE  
21          CLAIMS, DELIBERATE EFFORT TO SPLIT THOSE, THAT INDICATES THAT  
22          HE KNEW THAT THIS WAS IMPROPER TO SUBMIT THESE CLAIMS.

23          HE ALSO TOOK ANOTHER STEP TO DISGUISE WHAT WAS HAPPENING  
24          BY JUST NOT ACCEPTING REFERRALS. WHY IS THAT? WHY DID HE  
25          NOT -- HE HAD LOTS OF MASSAGE THERAPISTS, AND IF IT WAS REALLY

1 GREAT AND HE WAS, YOU KNOW, A MEMBER OF THE COMMUNITY THAT WAS  
2 WELL ESTEEMED, WHY NOT TAKE SOME OF HIS COLLEAGUES' PATIENTS TO  
3 MASSAGE THERAPY? WHY DON'T THEY GET A MASSAGE?

4 COMMON SENSE AND THE MOST REASONABLE EXPLANATION IS  
5 BECAUSE THAT WOULD HAVE INVITED SCRUTINY AS WELL, QUESTIONS  
6 FROM THE DOCTORS, "HEY, DR. BELCHER, MY PATIENT SAYS THEY'RE  
7 ONLY GETTING A MASSAGE. WE USUALLY DON'T DO THAT, OR IT'S  
8 USUALLY NOT COVERED." BUT BY NOT ACCEPTING REFERRALS, IT  
9 AVOIDED ANY OF THESE INQUIRIES FROM OTHER DOCTORS.

10 AND I THINK REALLY MOST TELLING ON THIS, ON DR. BELCHER'S  
11 EFFORT TO CONCEAL WHAT WAS HAPPENING, WAS NOT TAKING CO-PAYS.  
12 SO YOU'LL RECALL THAT DR. BELCHER, ON HIS PHYSICAL THERAPY AND  
13 MASSAGE THERAPY PATIENTS, DIDN'T TAKE A CO-PAY FROM ANYONE.

14 AND WHAT'S THE SIGNIFICANCE OF THAT? THE SIGNIFICANCE IS  
15 IF A PATIENT DOESN'T DO A CO-PAY, THEY DON'T REALLY CARE IF  
16 THIS IS COVERED OR NOT. NOT THEIR PROBLEM. YOU HEARD  
17 MICHAEL KELLEY TALK ABOUT THIS.

18 "MR. KELLEY, YOU KNOW, YOU DIDN'T HAVE TO PAY CO-PAYS.  
19 WAS THAT A CONCERN TO YOU?"

20 "NOT REALLY. I DIDN'T HAVE TO PAY THE MONEY SO I WASN'T  
21 CONCERNED."

22 SO IT AVOIDS SCRUTINY BY THE PATIENTS AS WELL ABOUT  
23 WHETHER THE CLAIMS WERE COVERED.

24 IS THIS A POLICY THAT DR. BELCHER HAD ACROSS PRACTICES OUT  
25 OF BENEVOLENCE OR GOODWILL? NO, IT IS NOT. REMEMBER THAT.

1 DR. BELCHER ONLY DID THIS BENEVOLENT ACT OF NOT TAKING A CO-PAY  
2 IN PHYSICAL THERAPY.

3 BUT HE TESTIFIED THAT HE DID INSIST UPON IT IN HIS  
4 SURGICAL PRACTICE. THE EXPLANATION WAS OFFERED, "WELL, I JUST  
5 REALLY CARE ABOUT MY PATIENTS. I REALLY WANT THEM TO GET GOOD  
6 CARE."

7 WHY IS THAT NOT TRUE IN BOTH INSTANCES? IF THAT'S REALLY  
8 MOTIVATING THE WAIVER OF THE CO-PAY, AREN'T YOU EQUALLY  
9 CONCERNED ABOUT IT WHEN THEY GET A SURGERY? ISN'T THE SAME  
10 CARE FOR A PATIENT THERE? WOULDN'T IT MOTIVATE YOU IN BOTH  
11 INSTANCES IF IT MOTIVATED YOU IN ONE?

12 THERE IS NO OTHER EXPLANATION OF WAIVING THESE CO-PAYS  
13 EXCEPT IT HELPED AVOID SCRUTINY.

14 AND ALSO REMEMBER THAT DR. BELCHER DIDN'T WANT CHARTS FROM  
15 DOCTOR -- OR FROM MS. CABRAL.

16 NOW, DR. BELCHER WILL ARGUE, I ANTICIPATE, THAT HE NEVER  
17 INSTRUCTED MS. CABRAL TO STOP GIVING THEM, THE CHARTS TO HIM.

18 BUT, REMEMBER, MS. CABRAL WAS VERY DILIGENT INITIALLY  
19 ABOUT THESE CHARTS, AND THEN IT WAS HER VIEW THAT NOBODY WAS  
20 REALLY LOOKING AT THEM AND THEY WEREN'T NECESSARY, SO SHE JUST  
21 STOPPED, AND SHE CERTAINLY WASN'T ASKED TO RESUME.

22 AND WHY IS THAT? WHY WOULD A DOCTOR SO INVESTED IN THE  
23 WELL BEING OF HIS PATIENTS, AS HE DESCRIBES IT, JUST SO  
24 MOTIVATED BY THEIR WELL BEING, NOT WANT TO HAVE CHARTS? WHY  
25 WOULD YOU NOT WANT CHARTS IF YOU WERE THAT CONCERNED?

1           AGAIN, I THINK THE BEST EXPLANATION IS THAT THESE CHARTS  
2           COULD CREATE PROBLEMS IF THERE WAS SCRUTINY ON WHAT WAS  
3           ACTUALLY HAPPENING. THE CHARTS, THE LESS DETAIL ON THESE  
4           CHARTS, THE LESS -- THE MORE DIFFICULT IT IS TO ACTUALLY  
5           INVESTIGATE OR CONFIRM THAT WHAT WAS HAPPENING WAS JUST A MERE  
6           MESSAGE.

7           IT JUST MADE IT EASIER TO CONCEAL WHAT WAS HAPPENING. IT  
8           WAS ANOTHER -- AND THEY ALL JUST STACK UP ON EACH OTHER, WHAT'S  
9           GOING ON IN THIS PHYSICAL THERAPY PRACTICE.

10          SO WHERE IS THE CONSPIRACY HERE? WHERE IS THE AGREEMENT?

11          SOME OF THIS HAS ALREADY BEEN TOUCHED ON. THE AGREEMENT  
12          HERE BETWEEN THE DOCTORS IS -- REMEMBER, THEY WORKED TOGETHER  
13          AND LIVED TOGETHER UNDER ONE ROOF. THEY HAVE JOINT BANK  
14          ACCOUNTS. THEIR LIVES ARE TOTALLY ENMESHED HERE.

15          DR. BELCHER IS ALSO SUBMITTING CLAIMS FOR DR. GANESH.  
16          HE'S DOING THE BANKING FOR HER. HE'S HELPING HIRE PEOPLE  
17          THERE. HE'S -- I THINK HE DESCRIBED HIMSELF AS BEING THE  
18          FATHER FIGURE FOR THE STAFF AT DR. GANESH'S OFFICE.

19          ON THE BELCHER SIDE, WHERE IS THE AGREEMENT REFLECTED AS  
20          WELL? WELL, GANESH IS REFERRING MESSAGES TO DR. BELCHER'S  
21          OFFICE, NOT REFERRING THEM ELSEWHERE, AND NO ONE ELSE IS  
22          GETTING TO REFER THEM.

23          YOU ALSO KNOW THAT THERE'S AN AGREEMENT HERE BETWEEN THESE  
24          TWO BECAUSE THEY OPENED UP BANK ACCOUNTS AT THE SAME TIME AND  
25          TOGETHER. AGAIN, THEY'RE NOT ADDED TO -- ONE IS NOT ADDED TO

1 THE OTHER ACCOUNT. THEY BOTH OPEN THEM AT THE SAME TIME, AND  
2 THE MONEY THERE IS TO GET -- IS COMING IN FROM THE GANESH  
3 PRACTICE AND THEY BOTH HAVE EQUAL CONTROL OVER IT. EVEN  
4 MS. KINSEL, WHO WAS CALLED BY DR. BELCHER, ACKNOWLEDGED THAT  
5 THE CONTROL OF THE MONEY IS EQUAL BY BOTH ACCOUNT HOLDERS.

6 THERE'S TWO MORE THINGS I WANT TO POINT OUT ABOUT THE  
7 PROOF THAT THERE IS AN AGREEMENT HERE BETWEEN THESE TWO  
8 DOCTORS, AND THIS IS REVEALED WHEN YOU LOOK AT THE BILLING  
9 HISTORY OF THESE TWO DOCTORS, PARTICULARLY DR. GANESH'S  
10 PATIENTS.

11 YOU'LL RECALL THAT MS. KIKUGAWA TESTIFIED THAT WHEN SHE  
12 TRACED THE SOURCE OF MONEY COMING INTO 8753 -- THIS IS WHAT'S  
13 BEEN REFERRED TO AS THE KRD ACCOUNT -- IT'S COMING IN FROM TWO  
14 INSURERS, BLUE SHIELD AND ANTHEM.

15 AND WHAT'S INTERESTING ABOUT BLUE SHIELD AND ANTHEM IS  
16 WHEN YOU LOOK AT THEIR PAYMENTS, IT'S THESE TWO AS INSURERS  
17 THAT ARE SORT OF ALWAYS BEING BILLED AS IF CARE HAD BEEN  
18 PROVIDED BY KRD. I MEAN, WE CAN LOOK AT THESE SPREADSHEETS  
19 JUST BRIEFLY HERE.

20 CAN WE LOOK AT 38A, PLEASE. AND IF WE GO DOWN TO THE,  
21 LIKE, 2011, THE PROVIDER NAME AND KIND OF GO DOWN TO, LIKE,  
22 2011 OR SO, OR JUST SCROLL DOWN. WE CAN JUST SCROLL DOWN  
23 WITHOUT CHANGING IT.

24 LOOK AT THAT. IT'S ALL EDWARD DEWEES.

25 CAN WE KEEP GOING?

1           THIS IS FAMILY MEDICAL HERE, CAMPBELL, AND THEN  
2           DR. EDWARD DEWEES.

3           CAN WE KEEP GOING?

4           OVERWHELMINGLY EDWARD DEWEES.

5           SO THAT'S WHAT THE CLAIMS SAY ON THEM, AND WE'LL COME BACK  
6           TO THE SIGNIFICANCE THAT THE CLAIMS SAY THAT.

7           THE SAME IS TRUE OF BLUE SHIELD.

8           CAN WE LOOK AT 39A?

9           AGAIN, IT'S KUHLMAN, RILEY & DEWEES IS THE NAME AS THE  
10          ATTENDING PROVIDER.

11          CAN WE JUST SCROLL DOWN? KEEP SCROLLING.

12          OVERWHELMINGLY, KUHLMAN, RILEY & DEWEES ON THOSE, TOO.

13          NOW, WHAT'S THE SIGNIFICANT OF THAT? REMEMBER,  
14          DR. BELCHER TESTIFIED THAT HE WAS SUBMITTING CLAIMS FROM THE  
15          SUPERBILLS. SO HOW WOULD DR. BELCHER KNOW THAT ON THESE  
16          PARTICULAR CLAIMS, HE HAD TO LIST THAT IT WAS EDWARD DEWEES AND  
17          KUHLMAN, RILEY & DEWEES? HOW WOULD HE KNOW THAT? HOW COULD HE  
18          KNOW TO GET IT SYNCHRONIZED ON THESE INSURERS WITH WHAT  
19          EVERYONE ELSE WAS DOING? EVERYTHING IS IN SYNCHRONICITY HERE.  
20          IT'S ALWAYS KUHLMAN, RILEY & DEWEES. HOW COULD HE KNOW THAT  
21          WITHOUT AN AGREEMENT? HOW COULD HE SYNCHRONIZE WITH EVERYTHING  
22          ELSE THAT'S GOING ON WITHOUT MEETING WITH AND AGREEING AND  
23          COMING TO SORT OF A JOINT PLAN ON HOW THESE CLAIMS WERE BEING  
24          SUBMITTED?

25          AGAIN, IT'S NOT JUMPING AROUND HERE. EVERYONE THAT'S

1 SUBMITTING THESE CLAIMS IS DOING IT THE SAME WAY. AND IT  
2 HAPPENS ACROSS THESE TWO INSURERS. HOW DID -- HOW COULD THAT  
3 HAPPEN WITHOUT AN AGREEMENT ON THAT? MAYBE, MAYBE, MAYBE IT  
4 JUST COINCIDENTALLY LINES UP FOR A MONTH OR TWO. BUT IT LINES  
5 UP FOR A LONG TIME. THAT INDICATES AN AGREEMENT.

6 THERE'S A SIMILAR PATTERN IF WE LOOK AT AETNA CLAIMS.

7 NOW, RECALL THAT WE LOOKED AT THE LETTER -- AND I WON'T  
8 PUT IT BACK ON THE SCREEN -- IT'S FROM JANUARY 2013. AETNA  
9 SAYS, "GOT SOME REAL CONCERNS ABOUT 99245, DR. GANESH. WE HAVE  
10 CONCERNS ABOUT HOW YOU'RE BILLING THAT." AND REMEMBER, THAT'S  
11 JANUARY 2013 WHEN THAT LETTER IS SENT TO DR. GANESH.

12 CAN WE GO TO 38B, PLEASE. AND CAN WE CHRON, CHRON THAT.  
13 CAN WE GO ON THE CLAIM RECEIPT DATE AND CHRON IT OFF THAT?

14 SO COLUMN Z IS THE CPT CODE, AND WE'VE CHRONNED IT OFF THE  
15 CLAIMED RECEIPT DATE.

16 SO NOTICE HERE THAT IN 2011, YOU KNOW, IT'S JUMPING AROUND  
17 A LITTLE BIT ON THE CPT CODES; RIGHT?

18 AND THEN KEEP GOING, PLEASE. AND WE'RE STILL IN 2011.  
19 CAN WE KEEP GOING?

20 THE COURT: THIS IS 39B?

21 MR. DELAHUNTY: YES, YOUR HONOR.

22 THE COURT: THE TRANSCRIPT SAYS 38B.

23 AGENT TAYLOR: 38B.

24 MR. DELAHUNTY: 38B, EXCUSE ME. THANK YOU, YOUR  
25 HONOR.



1           AND IF WE CAN JUST GO DOWN TO 2013. SO IF WE JUST STOP  
2 FOR A SEC -- OR KEEP GOING. KEEP GOING, PLEASE, I THINK  
3 IT'S -- YEAH, IT'S QUITE A WAYS DOWN.

4           A LOT OF 99245'S THERE. 2011. A LOT OF 99245'S. KEEP  
5 GOING. STILL A LOT OF 99245 IN 2012.

6           CAN WE JUMP DOWN THERE?

7           NOW LOOK AT THIS. ALL OF A SUDDEN, IT STARTS SWITCHING TO  
8 99215'S IN JANUARY.

9           CAN YOU KEEP SCROLLING?

10          LOOK AT THAT CHANGE. LOOK AT THAT. HOW DOES THAT HAPPEN  
11 WITHOUT AN AGREEMENT? IF THE CLAIMS ARE BEING SUBMITTED AFTER  
12 THIS LETTER AND YOU'VE SEEN THE CHANGE, THERE'S THE RAMPANT USE  
13 OF 99245 AND THE LETTER FROM AETNA SAYING, "HEY, WE'RE  
14 CONCERNED ABOUT 99245," AND THEN IT ALL CHANGES TO 99215 AND  
15 EVERYONE THAT'S SUBMITTING THOSE CLAIMS IS MORE OR LESS ON THE  
16 SAME PAGE, HOW CAN THAT HAPPEN WITHOUT AN AGREEMENT AND  
17 COOPERATION? IT CAN'T BE ASCRIBED TO CHANCE OR COINCIDENCE  
18 THAT EVERYONE JUST SORT OF HAPPENSTANCE GOT ON THE SAME PAGE.  
19 THAT IS CLEAR, CLEAR EVIDENCE OF COOPERATION AND COORDINATION  
20 BY THE TWO DOCTORS TO DO THE SAME THING.

21          THAT'S THE HEALTH CARE FRAUD AND THE CONSPIRACY TO COMMIT  
22 IT.

23          SO I'D LIKE TO TALK BRIEFLY JUST ABOUT WHETHER OR NOT  
24 DR. GANESH CAN CREDIBLY CLAIM THAT HER ACTIONS ARE EXCUSED BY  
25 HER MENTAL CONDITION AT THE TIME.

1 WELL, FIRST OF ALL, YOU'VE HEARD THIS. NONE OF THE  
2 DOCTORS THAT WERE CALLED HAD EVALUATED DR. GANESH FROM '08 TO  
3 2015, SO IT'S AN UNKNOWN WHAT SHE HAD, IF ANYTHING, IN THAT  
4 TIME PERIOD.

5 AND THE INSTRUCTIONS WILL INDICATE TO YOU THAT YOU CANNOT  
6 SPECULATE AND YOU CANNOT BE ASKED TO SPECULATE. IT'S WHAT'S  
7 THE EVIDENCE BEFORE YOU.

8 THE EVIDENCE BEFORE YOU IS THAT DR. GANESH WAS RUNNING A  
9 PRACTICE FROM 2008 TO 2015. YOU'VE HEARD ABOUT THE DEMANDS OF  
10 RUNNING A PRACTICE. SHE WAS DOING THAT. YOU HEARD PATIENTS  
11 TESTIFY THAT THROUGHOUT THAT TIME PERIOD, THEY DIDN'T HAVE ANY  
12 PROBLEMS INTERACTING WITH HER. IN FACT, THEY REALLY ALL SEEMED  
13 TO LIKE HER. THEY THOUGHT SHE WAS A GOOD DOCTOR.

14 AND, AGAIN, BEING A DOCTOR IS VERY DEMANDING. IT'S NOT A  
15 ROTE TASK. MAYBE SHE WAS LATE, MAYBE SHE WAS DISORGANIZED, BUT  
16 THAT ISN'T A TYPE OF SEVERE MENTAL ILLNESS OR A SYMPTOM OF  
17 SEVERE MENTAL ILLNESS. A LOT OF PEOPLE -- AND YOU CAN BRING  
18 YOUR COMMON SENSE TO BEAR ON THIS. MOST PEOPLE ARE LATE AND  
19 DISORGANIZED, OR A LOT OF PEOPLE ARE, BUT WOULD THAT EXCUSE  
20 THEM IF THEY COMMITTED A CRIME?

21 ALSO, THERE CANNOT BE AN ARGUMENT THAT GANESH IS A  
22 HELPLESS PAWN AND DOESN'T UNDERSTAND THIS COMPLEX WORLD THAT  
23 SHE'S LIVING AND OPERATING IN. THAT JUST CANNOT BE ARGUED.  
24 IT'S NOT SUPPORTED BY THE EVIDENCE.

25 IN FACT, WHAT YOU'VE SEEN IS DR. GANESH IS QUITE CAPABLE

1 OF NAVIGATING COMPLEX SYSTEMS TO HER BENEFIT, QUITE GOOD AT  
2 GETTING THIS LAWSUIT GOING WITH MS. LANDIS AND GETTING THAT TO  
3 A PLACE WHERE SHE DIDN'T HAVE ANY SEVERE REPERCUSSIONS FROM IT.

4 NAVIGATED THE DEWEEES LAWSUIT AS WELL.

5 GOT EMBROILED WITH HER CONTRACTORS AND FIGURED OUT THE WAY  
6 TO DEAL WITH THAT WAS TO SORT OF MAKE THREATS THROUGH LAWSUITS.

7 SO WHENEVER IT BENEFITS DR. GANESH, SHE'S QUITE CAPABLE OF  
8 NAVIGATING COMPLEX LEGAL SYSTEMS TO HER BENEFIT.

9 IT CAN'T BE ARGUED, EITHER, THAT DR. GANESH IS IRRATIONAL.  
10 THERE'S NOTHING IRRATIONAL ABOUT ALWAYS FIGURING OUT THE WAY TO  
11 GET THE MOST MONEY HERE, AND THAT IS -- IT'S NOT LIKE THESE  
12 CODES JUMP ALL OVER THE PLACE. THEY LAND ON THE SAME TWO  
13 PLACES, WHICH ARE THE ONES THAT GIVE YOU THE MOST MONEY.  
14 THAT'S WHAT RATIONAL PEOPLE DO. YOU TRY AND -- YOU KNOW,  
15 THERE'S NOTHING IRRATIONAL ABOUT TRYING TO MAXIMIZE YOUR  
16 INCOME. IN THIS INSTANCE, IT'S CRIMINAL, BUT THAT DOESN'T MEAN  
17 THAT IT WASN'T A RATIONAL PURPOSE AND AN EFFORT TO OBTAIN THAT  
18 END.

19 AND YOU'VE ALSO HAD A CHANCE TO OBSERVE HER DEMEANOR IN  
20 THIS TRIAL AND HEAR HER TESTIMONY AND HER COMMAND OF WHAT  
21 HAPPENED BACK THEN. DR. GANESH DIDN'T TESTIFY AS IF SHE HAD NO  
22 IDEA OR JUST COULDN'T COMPREHEND WHAT WAS GOING ON BACK THEN.

23 THE DOCTORS TESTIFIED RECENTLY, I'M TALKING ABOUT  
24 LEVINSON, FRIEDMAN AND GLEZER, AND I'M NOT GOING TO BELABOR  
25 THAT. THE BOTTOM LINE HERE IS THAT DR. FRIEDMAN IS ASKING YOU

1 TO BELIEVE THAT DR. GANESH FOR THE MOST PART HAS COGNITIVE  
2 ABILITIES LOWER THAN A PERSON WITH MODERATE ALZHEIMER'S, AND  
3 HIS TESTIMONY WAS THAT A PERSON WITH ADVANCED ALZHEIMER'S WOULD  
4 BE SO BAD, THEY WOULDN'T EVEN BOTHER TO TEST. SO A MODERATE  
5 ALZHEIMER'S IS THE WORST KIND OF PATIENT THAT HE WOULD COMMONLY  
6 TEST FOR, AND YOU'RE ASKED TO BELIEVE THAT, FOR THE MOST PART,  
7 DR. GANESH HAS THAT KIND OF ABILITY.

8 THAT IS UNBELIEVABLE. IT IS UNBELIEVABLE TO SUGGEST THAT  
9 THAT'S THE TRUE INDICATION OF DR. GANESH'S ABILITY.

10 YOU HEARD DR. LEVINSON TESTIFY AS WELL. REMEMBER,  
11 DR. LEVINSON IS FULLY INVESTED IN HIS, IN THE WELL BEING AND  
12 HEALTH OF HIS PATIENT. HE ACKNOWLEDGES THAT HE FACES A BIAS  
13 THERE AND CONFLICT OF INTEREST. HE IS NOT A NEUTRAL SOURCE OF  
14 THAT.

15 AND YOU HEARD THE TESTIMONY AND HIS AGREEMENT WITH HIS  
16 PRIOR TESTIMONY AS WELL, THAT HE DOESN'T KNOW WHAT WAS GOING ON  
17 WITH DR. GANESH PRIOR TO WHEN HE SAW HER. HE HAD SOME  
18 HYPOTHESES, BUT ULTIMATELY HE DOESN'T KNOW.

19 AND, AGAIN, YOU'VE RECEIVED THE INSTRUCTIONS AND YOU'LL  
20 TAKE THEM BACK WITH YOU, BUT YOU'RE INSTRUCTED NOT TO SPECULATE  
21 AND TO RELY UPON WHAT'S IN FRONT OF YOU IN TERMS OF EVALUATING  
22 DR. GANESH IN THAT TIME PERIOD.

23 SO WHAT I'D LIKE TO DO NOW IS NOW TURN TO THE ACTUAL  
24 CLAIMS THAT ARE CHARGED IN THIS CASE AND WHY -- AND GO THROUGH  
25 WHY THEY'RE FALSE. THERE ARE A NUMBER OF CLAIMS THAT ARE

1 CHARGED AS BEING FALSE, AND YOU'VE BEEN SHOWN THAT THEY ARE  
2 FALSE.

3 THE FIRST TWO THROUGH TEN ARE HEALTH CARE FRAUD CLAIMS.  
4 THAT MEANS THEY'RE INDIVIDUAL INSTANCES OF THE SCHEME TO  
5 DEFRAUD AND EXECUTE AND WE'VE COVERED THE ELEMENTS OF THAT.

6 CAN WE TOGGLE TO THE ELMO, PLEASE?

7 THE CLERK: YES, COUNSEL.

8 MR. DELAHUNTY: OKAY. COUNT TWO IS A CLAIM SUBMITTED  
9 TO ANTHEM BLUE CROSS FOR CARE PROVIDED ON JUNE 28TH, 2012 FOR  
10 SUREKHA SONI.

11 AND JUST TO MAKE THIS MORE EFFICIENT, I'LL DO TWO OF THESE  
12 AT A TIME.

13 COUNT TWO IS A MAY 5TH CLAIM TO BLUE SHIELD REGARDING THE  
14 CARE OF MICHAEL KELLEY.

15 CAN WE TOGGLE, PLEASE, TO THE COMPUTER, PLEASE?

16 CAN WE GO TO EXHIBIT 33-313?

17 AND THERE'S THE CLAIM RIGHT THERE, 6-28-2012. THIS IS  
18 ALSO CORROBORATED IN EXHIBIT 38B, WHICH IS WHAT HAS BEEN CALLED  
19 THE SOURCE SPREADSHEET. AT ROW 6045, IT SHOWS THE SAME  
20 INFORMATION.

21 TOGGLE ACROSS.

22 THERE'S THE 6 -28, THERE'S THE -- IT'S CLAIMED AS  
23 EDWARD DEWEES. PLEASE MAKE A NOTE OF THAT, THAT THAT'S WHO IS  
24 CLAIMED AS PROVIDING THE CARE.

25 CAN WE JUST KEEP GOING ACROSS TO CONFIRM IT'S MS. SONI?

1 AND THERE'S MS. SONI THERE.

2 SO THE SPREADSHEET MATCHES THE EOB, AND THE SPREADSHEET  
3 INDICATES THAT DR. DEWEES WAS CLAIMED AS THE DOCTOR PROVIDING  
4 IT. BUT DR. DEWEES WAS LONG GONE. THAT'S FALSE. THAT CLAIM  
5 IS FALSE FOR THAT REASON.

6 AND YOU ALSO HEARD MS. SONI TESTIFY THAT WHEN SHE LOOKED  
7 AT HER PATIENT FILE -- AND I'M NOT GOING TO PUT IT UP NOW --  
8 BUT SHE TESTIFIED WHEN SHE LOOKED AT IT, THERE WAS NO PATIENT  
9 RECORD FOR JUNE 28TH, 2012. THAT CLAIM IS FALSE.

10 CAN WE GO, PLEASE, TO 34-547? THIS IS COUNT THREE. AND  
11 CAN WE HIGHLIGHT THE BOTTOM HALF?

12 THERE'S THE CLAIM, 3-5-12, 99245, MICHAEL KELLEY.

13 IF WE CAN GO NOW TO 39A, ROW 815, PLEASE.

14 AND THERE AGAIN, DR. DEWEES. THIS CLAIM WAS SUBMITTED FOR  
15 MARCH 5TH, 2012 CARE, BUT IT CLAIMS DR. DEWEES IS THE ONE THAT  
16 PROVIDED IT. THAT CLAIM IS FALSE.

17 CAN WE NOW -- NOW LET'S LOOK AT -- I'LL GO THROUGH  
18 THESE -- I'LL DO ALL THREE OF THESE AT THE SAME TIME.

19 IF WE CAN TOGGLE, PLEASE.

20 SO COUNT FOUR IS DECEMBER 30TH CARE FOR MASTANEH HABIBI  
21 SUBMITTED TO CIGNA; COUNT FIVE IS FEBRUARY 17TH, 2014 CARE  
22 PROVIDED TO ANN DWAN; AND COUNT SIX IS SEPTEMBER 21ST, 2012,  
23 PROVIDED TO SARINI KAKKAR.

24 CAN WE PLEASE TOGGLE TO THE COMPUTER, PLEASE?

25 AND CAN WE LOOK AT THE EXPLANATION OF BENEFITS PLEASE?

1 EXCUSE ME, EXHIBIT 33 AT 335.

2 I MAY HAVE THE WRONG PAGE THERE. I'LL COME BACK TO THAT.  
3 WE CAN SEE IT AS WELL IN THE SOURCE SPREADSHEET.

4 CAN WE GO TO PAGE 40, EXHIBIT 40A, 5717?

5 SO FOR MS. HABIBI, IT'S ROW 5715.

6 CAN WE SCROLL ACROSS, PLEASE, TO THE DATE?

7 THERE. RIGHT THERE. 12-30-2012, 99215. AGAIN, YOU'VE  
8 HEARD TESTIMONY ABOUT THE USE OF THESE CODES.

9 THAT DAY ALSO FALLS ON A WEEKEND. THAT'S CONFIRMED AT  
10 EXHIBIT 153-7, PAGE 7. OH, WELL, IF WE SKIP FORWARD TO  
11 DECEMBER 2012, OR BACKWARDS. THERE IT IS. THERE'S THE -- IT'S  
12 A SUNDAY. THE 30TH IS A SUNDAY.

13 I'D ALSO, JUST TO SAVE TIME IN THE FUTURE, IF YOU WOULDN'T  
14 MIND REMEMBERING THAT THE 29TH IS ALSO A SATURDAY, BECAUSE THAT  
15 DAY IS CLAIMED -- THAT CLAIM IS ALSO CHARGED IN A LATER COUNT.

16 SO THAT CLAIM IS FALSE. NO ONE WAS THERE THAT DAY. THE  
17 USE OF THAT CPT CODE IS INAPPROPRIATE.

18 COUNT FIVE WAS ANN DWAN'S CLAIM FOR CARE PROVIDED ON  
19 FEBRUARY 17TH, WHICH IS REFLECTED AT 36-101. AND HERE WHAT'S  
20 INTERESTING ABOUT THIS EOB IS IT SHOWS A SERIES OF CLAIMS IN  
21 MID-FEBRUARY. THIS ONE IS ON 2-17-2014, AND THEN THERE WAS ONE  
22 AT 19 AND SO FORTH.

23 REMEMBER, MS. DWAN TESTIFIED TO THIS UNEQUIVOCALLY. SHE  
24 WAS OUT OF THE COUNTRY ALMOST THE ENTIRETY OF THAT MONTH IN  
25 ENGLAND. SHE WAS NOT SEEN THOSE DAYS.

1           AND YOU ALSO HEARD TESTIMONY IN THE EVIDENCE ABOUT THE USE  
2 OF THOSE CODES.

3           I'M NOT GOING TO PUT IT UP THERE, BUT THIS IS ALSO  
4 CORROBORATED IN THE SOURCE SPREADSHEETS AT 42G AT ROW 3911.

5           COUNT SIX IS MS. KAKKAR FOR CLAIM -- FOR CARE, A CLAIM TO  
6 HAVE OCCURRED ON 9-21-2012. THIS IS REFLECTED AT EOB 32-649 --  
7 EXCUSE ME -- 657 OF THIS.

8           THERE'S THE 9-21 CARE. AND WHAT'S INTERESTING THERE IS  
9 THAT THAT CARE, THAT CLAIM WAS RECEIVED ON 12-10-2012.

10          CAN WE LOOK, PLEASE, AT SOURCE SPREADSHEET 15B? OH,  
11 SORRY. CAN WE GO BACK?

12          OKAY. IF YOU'LL NOTE HERE, CLAIMS ON THE 21ST, THE 19TH,  
13 THE 14TH, ALL SUBMITTED ON 12-10. IF WE GO TO THE NEXT PAGE,  
14 THERE'S ONE MORE.

15          GO TO THE NEXT PAGE. WELL, I THINK IT ACTUALLY WAS  
16 PAGE 8. SORRY. SO BACK TWO PAGES, PLEASE.

17          AND 12-10 AGAIN ON 9-15. SO REMEMBER THESE DATES, 14TH,  
18 17TH, 19TH, 21ST, SUBMITTED ON DECEMBER 10TH, 2012.

19          SO IF WE LOOK, PLEASE, AT 15B -- AND CAN WE SORT THIS,  
20 PLEASE, FOR ONLY CLAIMS SUBMITTED ON DECEMBER 10TH, 2012? IT  
21 SHOULD BE -- OKAY.

22          LOOK AT THIS. LOOK AT THIS. THESE CLAIMS ARE ALL  
23 SUBMITTED ON THE 10TH FOR A VARIETY OF PATIENTS, AND EACH ONE  
24 OF THESE PATIENTS IS BILLED THAT SAME PATTERN OF DAYS, 14TH,  
25 17TH, 19TH, AND 21ST. HOW DOES THAT HAPPEN WITHOUT DELIBERATE



1 INTENT? HOW DOES THE PERSON SUBMITTING THAT CLAIM NOT KNOW  
2 THAT THEY'RE ALL FALSE? THAT IS REMARKABLE.

3 YOU'RE GOING TO -- THE ONLY WAY THAT'S NOT FALSE IS IF  
4 THIS GROUP OF PATIENTS WAS REMARKABLY SEEN FOUR TIMES AT THE  
5 SAME TIMES AT ONE WEEK.

6 YOU'VE HEARD MS. KAKKAR TESTIFY ALSO THAT SHE WASN'T SEEN  
7 THOSE FOUR DAYS. FOUR TIMES IN SEVEN DAYS, SHE DOESN'T RECALL  
8 GOING THERE THAT OFTEN.

9 AND YOU'VE HEARD TESTIMONY ABOUT THE USE OF THAT CPT CODE.

10 BUT IT ALSO COMES BACK TO PEOPLE SUBMITTING THOSE CLAIMS.  
11 THEY KNOW THEY'RE FALSE. AND DR. BELCHER HAS ADMITTED TO  
12 SUBMITTING DR. GANESH'S CLAIMS.

13 COUNT SEVEN IS -- LET'S DO A BATCH HERE -- IS -- CAN WE  
14 TOGGLE TO THE ELMO, PLEASE?

15 THE CLERK: ONE MOMENT, COUNSEL.

16 MR. DELAHUNTY: THANK YOU.

17 SO COUNT SEVEN IS OCTOBER 9TH CARE FOR MASTANEH HABIBI;  
18 JUNE 19TH CARE FOR MASTANEH HABIBI; MAY 19TH CARE FOR  
19 MICHAEL KELLEY; AND JUNE 22ND, 2014 CARE FOR MR. BONTE.

20 AND THESE ARE ALL BELCHER CLAIMS NOW. WE'RE TALKING --  
21 WE'RE SHIFTING NOW TO CLAIMS SUBMITTED REGARDING DR. BELCHER'S  
22 PHYSICAL THERAPY PATIENTS.

23 SO IF WE CAN LOOK, PLEASE, AT THE EXPLANATION OF BENEFITS  
24 IN 89 -- WE'LL START WITH COUNT SEVEN.

25 IF WE COULD TOGGLE, PLEASE, TO THE MONITORS.

1           89-255. THERE'S THE EXPLANATION OF BENEFITS, PHYSICAL  
2 THERAPY. AND I WANT YOU TO NOTE THE COVERED AMOUNT HERE, \$160  
3 FOR PHYSICAL THERAPY HERE.

4           AND I WON'T PUT IT UP, BUT YOU CAN LOOK AT THIS IN THE  
5 SOURCE SPREADSHEETS THAT CORROBORATE THE ACCURACY OF THE EOB  
6 AND THE SOURCE SPREADSHEETS. THIS IS AT 40A AT ROWS 8577  
7 THROUGH 8580.

8           BUT WHEN YOU LOOK AT THE GOOGLE CALENDAR -- IF WE GO TO  
9 44-158 -- MASTANEH HABIBI IS NOT THERE THAT DAY. SHE'S NOT  
10 THERE ON 10-9. NOT THERE.

11           SHE IS THERE TWICE ON THE 10TH, THOUGH. SO WHAT HAPPENS?  
12 AGAIN, SPLITTING OF THE CLAIMS.

13           AND IS THIS GOOGLE CALENDAR ACCURATE? YOU BET IT IS.

14           WE'LL LOOK AT THE SIGN-IN SHEETS. 108A-123. 10-9,  
15 THERE'S NO HABIBI THERE.

16           CAN WE GO FORWARD A PAGE? ACTUALLY, I GUESS BACK TWO,  
17 PARDON ME.

18           SO THERE'S NO SIGN-IN SHEET THAT INDICATES THAT MS. HABIBI  
19 IS THERE. YOU SAW THE 8TH, THE 9TH, AND THE 10TH. MS. HABIBI  
20 WAS NOT ON THERE. SHE WASN'T SEEN ON THE 9TH. BUT HER  
21 INSURANCE WAS BILLED FOR IT.

22           SIMILARLY, MS. HABIBI'S INSURANCE COMPANY WAS BILLED FOR A  
23 VISIT ON 6-19-2013, AND THIS IS REFLECTED AT EOB 89-285. THERE  
24 IT IS, 6-19.

25           NOW, THIS TIME THE AMOUNT IS 217. AGAIN, KEEP THOSE

1 NUMBERS IN MIND HOW MUCH IS REALLY BEING PAID OUT HERE.

2 WAS MS. HABIBI THERE? NOT ACCORDING TO THE GOOGLE  
3 CALENDARS.

4 BY THE WAY, YOU CAN CORROBORATE THIS EOB IN THE SOURCE  
5 SPREADSHEETS AS WELL, 40A, ROW NUMBER 8822. THE CLAIM NUMBERS  
6 MATCH.

7 IF YOU GO TO 44-102, IS MS. HABIBI THERE ON THE 19TH? NO,  
8 SHE'S NOT. THERE IS SOME BOOT CAMP GOING ON THERE, BUT IT'S  
9 NOT ON THE 19TH. THAT CLAIM IS FALSE.

10 IS THE GOOGLE CALENDAR ACCURATE? IT'S CERTAINLY  
11 CONSISTENT WITH THE SIGN-IN SHEETS AGAIN. IF YOU LOOK AT  
12 108B-239, THERE'S NO HABIBI THERE. NO SERVICE WAS PROVIDED  
13 THAT DAY. BUT THE INSURANCE COMPANY WAS ASKED TO PAY FOR IT AS  
14 IF IT WAS.

15 NOW, COUNTS NINE AND TEN -- COUNT NINE, THIS IS A  
16 MICHAEL KELLEY CLAIM. IF WE LOOK AT THE EOB 116-191, 5-19,  
17 WHICH IS THIS BOTTOM PART HERE, YOU CAN CONFIRM THAT THIS WAS  
18 BILLED WITH THE SOURCE SPREADSHEETS AT 39B, ROW 5505.

19 BUT THIS WAS A VISIT THAT ACTUALLY DID HAPPEN, OR HE WAS  
20 ACTUALLY SEEN THAT DAY, BUT WHEN YOU LOOK AT THE GOOGLE  
21 CALENDAR, IT CONFIRMS THAT IT WAS MASSAGE THERAPY. THAT'S WHAT  
22 WAS HAPPENING. 44-137. 5-19.

23 EXCUSE ME. DID I GET MY DATES WRONG?

24 THERE'S MICHAEL KELLEY ON MASSAGE THERAPY.

25 SO I'M NOT GOING TO SHOW YOU THE SIGN-IN SHEET. IT ALSO

1           LISTS HIM AS -- IF YOU WANT TO LOOK AT IT, IT'S 116-189.

2                   BUT WE TALKED ABOUT THIS.   THE MASSAGE THERAPY CLAIMS ARE  
3 FALSE, RIGHT?  THEY ARE SUBMITTED AS IF THEY'RE PHYSICAL  
4 THERAPY THAT WAS ACTUALLY HAPPENING USING THE SAME PHYSICAL  
5 THERAPY CODES, AND THE INSURERS WOULD NOT HAVE PAID THEM IF  
6 THEY HAD KNOWN THAT IT WAS MASSAGE THERAPY GOING ON.

7                   110 -- EXCUSE ME.  COUNT TEN IS AN ANTHONY BONTE CLAIM FOR  
8 SERVICE PURPORTEDLY PROVIDED ON 6-22-14.  THAT'S SHOWN AT  
9 EOB 34-231.  THERE IT IS.

10                   CAN WE ZOOM IN ON THAT?

11                   SAME RANGE OF CPT CODES.  BUT THIS TIME THAT'S A WEEKEND.  
12 WE CAN LOOK AT THE CALENDAR.

13                   IF YOU WANT TO CONFIRM THAT THAT EOB IS REFLECTED IN THE  
14 SOURCE SPREADSHEETS, IT'S 39B AT 5637 THROUGH 40.  THAT'S A  
15 SUNDAY.  IF WE LOOK AT 44-104, 6-22 WAS A SUNDAY.  NO ONE IS  
16 THERE.  ANTHONY BONTE IS NOT SEEN THAT DAY.  THAT'S A FALSE  
17 CLAIM.

18                   SO THOSE ARE THE HEALTH CARE FRAUD COUNTS.

19                   SO I HAVE TWO MORE SECTIONS TO COVER, WHICH ARE THE FALSE  
20 CLAIMS SUBMITTED TO THE INSURANCE COMPANIES AND THE MONEY  
21 LAUNDERING.

22                   THE FALSE CLAIMS SUBMITTED TO INSURANCE COMPANIES ARE  
23 CHARGED UNDER A DIFFERENT STATUTE.  IT LARGELY TRACKS HEALTH  
24 CARE FRAUD, BUT IT DOES HAVE SLIGHTLY DIFFERENT ELEMENTS, SO I  
25 JUST WANT TO DRAW ATTENTION TO THAT.  IT'S IN THE COURT'S

1 INSTRUCTIONS, WHICH YOU'LL HAVE THE OPPORTUNITY TO TAKE BACK  
2 WITH YOU.

3 IF WE CAN JUST SHOW THAT, PLEASE, ON THE ELMO, PLEASE.

4 THE COURT: I'M SORRY TO INTERRUPT YOU. WE'VE BEEN  
5 GOING FOR OVER AN HOUR, SO WE SHOULD TAKE A FIVE MINUTE BREAK.

6 MR. DELAHUNTY: OKAY. THANK YOU, YOUR HONOR.

7 THE COURT: DON'T RESEARCH OR DISCUSS THE CASE.  
8 THANK YOU FOR YOUR PATIENCE AND YOUR SERVICE.

9 (JURY OUT AT 11:04 A.M.)

10 THE COURT: HOW MUCH LONGER DO YOU THINK YOU HAVE?

11 MR. DELAHUNTY: I WOULD ESTIMATE 25 MINUTES, YOUR  
12 HONOR.

13 THE COURT: OKAY. WHERE IS MR. HOROWITZ? DID HE  
14 STEP OUT?

15 MS. CHUNG: I THINK HE WENT TO THE RESTROOM.

16 THE COURT: OKAY. I'LL HAVE TO ASK HIM WHETHER HE  
17 WANTS TO START OR WHETHER HE JUST WANTS TO DO LUNCH EARLY,  
18 BECAUSE I DON'T WANT TO BREAK UP HIS PRESENTATION IN THE MIDDLE  
19 WITH THE LUNCH BREAK, SO I'LL CHECK WITH HIM LATER.

20 ALL RIGHT. THANK YOU.

21 (RECESS FROM 11:05 A.M. UNTIL 11:13 A.M.)

22 MR. HOROWITZ: SORRY, YOUR HONOR. I RAN TO THE  
23 RESTROOM.

24 THE COURT: NO PROBLEM. I GUESS THE QUESTION IS, DO  
25 YOU WANT TO GO AHEAD AND GO WHEN MR. DELAHUNTY IS FINISHED AND

1 WE CAN JUST TELL THE JURORS THEY'RE GOING TO TAKE A LATER LUNCH  
2 BREAK, OR WOULD YOU PREFER THAT WE TAKE OUR LUNCH BREAK AFTER  
3 HE FINISHES AND THEN YOU START AFTER?

4 MR. HOROWITZ: EITHER ONE.

5 THE COURT: WHAT DO YOU PREFER?

6 MR. HOROWITZ: HONESTLY, WHEN HE'S DONE, I CAN START.  
7 ONE MINUTE TO 12:00, I'LL LOOK AT YOU AND SAY "THIS IS A GOOD  
8 TIME TO STOP," AND I'LL STOP AND THEN FINISH UP AFTER LUNCH.

9 THE COURT: OKAY. I'M JUST GIVING YOU THE OPTION, IF  
10 YOU DIDN'T WANT TO HAVE YOUR CLOSING ARGUMENT BROKEN UP IN THE  
11 MIDDLE BY LUNCH, I'M FINE WITH EITHER MAKING THEM TAKE LUNCH  
12 LATE OR TAKING LUNCH EARLY SO THAT YOU DON'T GET BROKEN UP.  
13 IT'S WHATEVER YOU PREFER.

14 MR. HOROWITZ: I DON'T MIND. IT'S LIKE I WATCH TV  
15 WITH COMMERCIALS. I'M USED TO IT. MY BRAIN IS USED TO THE  
16 BREAKS. I'M OKAY WITH THAT.

17 THE COURT: ALL RIGHT. SO YOU WANT TO KEEP THE  
18 REGULAR SCHEDULE?

19 MR. HOROWITZ: SURE.

20 THE COURT: ALL RIGHT. THANK YOU.

21 LET'S GO AHEAD, PLEASE.

22 (JURY IN AT 11:14 A.M.)

23 THE COURT: WELCOME BACK. PLEASE TAKE A SEAT.

24 GO AHEAD, PLEASE.

25 MR. DELAHUNTY: THANK YOU, YOUR HONOR.

1 SO THE NEXT SERIES OF COUNTS ARE ELEVEN THROUGH SEVENTEEN.  
2 THESE ARE FALSE STATEMENTS TO THE HEALTH CARE PROVIDER. THERE  
3 IS SOME OVERLAP IN HEALTH CARE FRAUD, BUT THERE ARE DIFFERENCES  
4 IN THESE ELEMENTS.

5 THE COURT HAS INSTRUCTED YOU, BUT TO SUMMARIZE, THE FIRST  
6 ELEMENT IS THAT THE DEFENDANT MADE A MATERIALLY FALSE WRITING  
7 OR DOCUMENT; SECOND, THAT THE DEFENDANT KNEW THE MATERIALLY  
8 FALSE WRITING OR DOCUMENT CONTAINED A MATERIALLY FALSE,  
9 FICTITIOUS, OR FRAUDULENT STATEMENT; THIRD, IT WAS IN  
10 CONNECTION WITH THE DELIVERY OF PAYMENT FOR HEALTH CARE  
11 BENEFITS, ITEMS, OR SERVICES INVOLVING A HEALTH CARE BENEFIT  
12 PROGRAM, AND THAT WAS DEFINED EARLIER IN THE HEALTH CARE FRAUD  
13 STATUTE AS THE FIVE INSURERS; AND FOURTH, THE DEFENDANT DID SO  
14 KNOWINGLY AND WILLFULLY, THAT IS, THE DEFENDANT ACTED  
15 DELIBERATELY AND WITH THE KNOWLEDGE BOTH THAT THE STATEMENT WAS  
16 UNTRUE, AND THAT HIS CONDUCT WAS UNLAWFUL, OR HER CONDUCT WAS  
17 UNLAWFUL.

18 SO LET'S LOOK AT THESE GROUP OF COUNTS, AND I WILL TRY TO  
19 DO THIS EFFICIENTLY.

20 THE FIRST FOUR RELATE TO CLAIMS FOR GANESH PATIENTS BY  
21 DR. GANESH. THE FIRST ONE IS A DECEMBER 23RD CLAIM -- NOW,  
22 THESE CLAIMS -- THESE COUNTS ARE DRIVEN BY THE DATE THE CLAIM  
23 WAS SUBMITTED, NOT THE DATE OF CARE, ALTHOUGH THE DATE OF CARE  
24 WILL DICTATE THE FALSITY. BUT IT'S THE DATE OF THE CLAIM IS  
25 WHAT'S BEING REFERRED TO IN THE COUNT.

1 SO NUMBER ONE IS A CLAIM SUBMITTED ON OR ABOUT  
2 DECEMBER 23RD FOR SUREKHA SONI; COUNT TWELVE IS AN AUGUST 10TH  
3 SUBMISSION FOR CARE REGARDING MICHAEL KELLEY; COUNT THIRTEEN IS  
4 A SUBMISSION MADE ON OR ABOUT MARCH 29, 2013, TO CIGNA FOR  
5 MS. HABIBI; AND COUNT FOURTEEN IS A MAY 12TH, 2014 SUBMISSION  
6 REGARDING MS. DWAN.

7 IF WE COULD TOGGLE BACK, PLEASE, TO THE COMPUTERS, PLEASE.

8 SO THE FIRST COUNT, COUNT ELEVEN, IS A CLAIM OF CARE THAT  
9 WAS PURPORTEDLY PROVIDED ON DECEMBER 31ST, 2012, AND IT WAS  
10 SUBMITTED ACTUALLY ON DECEMBER 23RD. YOU CAN CONFIRM THAT IN  
11 EXHIBIT 38B, ROW 6800 THROUGH 6803, BUT I WOULD JUST LIKE TO  
12 SHOW YOU -- WELL, LET'S LOOK AT EOB 33-92.

13 HERE'S THE -- EXCUSE ME -- THE ACTUAL CLAIM THAT WAS  
14 SUBMITTED. WHAT'S INTERESTING ABOUT THIS IS THAT DR. DEWEES IS  
15 LISTED AS THE PROVIDER, AND HERE'S HIS NUMBERS. AND THEN DOWN  
16 IN THE BOX, THIS BOX INDICATES WHO THE RENDERING PHYSICIAN WAS.  
17 IT'S KIND OF HARD TO READ, BUT IF YOU LOOK AT EXHIBIT 143,  
18 IT'LL CLEARLY INDICATE WHAT THESE BOXES SHOW.

19 WE CAN CALL IT UP NEXT ACTUALLY. THESE NUMBERS HERE, FOR  
20 THE RENDERING PHYSICIAN, MATCH THOSE IDENTIFIED AS DR. DEWEES'S  
21 NUMBERS.

22 SO THE CLAIM IS CLAIMING THAT DR. DEWEES SAW MS. SONI. IF  
23 YOU LOOK AT 143, THAT'S A LITTLE MORE CLEAR. THAT BOX IS WHERE  
24 THE RENDERING PHYSICIAN IS IDENTIFIED.

25 CAN WE TAKE THAT DOWN, PLEASE?



1 DR. DEWEES HAD LEFT THE PRACTICE BY THEN. HE WASN'T --  
2 MS. SONI WASN'T SEEN BY DR. DEWEES. THAT CLAIM IS FALSE.

3 IT'S ALSO FALSE BECAUSE IT USES THE SAME CPT CODES THAT WE  
4 TALKED ABOUT EARLIER THAT WERE INAPPROPRIATELY USED.

5 COUNT TWELVE IS A MICHAEL KELLEY CLAIM THAT WAS SUBMITTED  
6 ON AUGUST 10TH, AND YOU CAN SEE THESE CLAIMS AT EOB 34-804.

7 AND IF WE CAN ZOOM IN THERE, PLEASE.

8 THERE'S THE TWO CLAIMS, 6-2 AND 8-22 CARE, 99245. WE  
9 TALKED ABOUT THE FALSITY OF USING THAT CPT CODE.

10 BUT ALSO, YOU CAN CONFIRM THAT THIS INFORMATION WAS  
11 ACCURATELY TRACKED IN THE SOURCE SPREADSHEET AT 39A, ROW 1089.

12 ACTUALLY, LET'S LOOK AT THAT. CAN WE LOOK AT 39A, ROW  
13 1089?

14 SO HERE IT IS, AND IF YOU LOOK AT ROW H, THE PROVIDER IS  
15 IDENTIFIED AS DR. DEWEES. MICHAEL KELLEY -- KEEP SCROLLING  
16 OVER -- THERE'S -- STOP THERE, PLEASE. THERE IT IS, 6-2-2012,  
17 99245, SUBMITTED ON 8-10. IT MATCHES -- AGAIN, THE SOURCE  
18 SPREADSHEET MATCHES THE EXPLANATION OF BENEFITS, BUT THIS  
19 CONFIRMS THAT WHAT WAS CLAIMED WAS DR. DEWEES SAW  
20 MICHAEL KELLEY, AND YOU KNOW HE DIDN'T. YOU KNOW THAT  
21 DR. DEWEES WAS LONG GONE BY 2012. THAT CLAIM IS FALSE. AND IT  
22 ALSO USES INAPPROPRIATELY THE 99245.

23 IF YOU LOOK AT THE NEXT COUNT, MASTANEH HABIBI IS  
24 PURPORTEDLY SEEN -- THIS IS A CLAIM THAT WAS SUBMITTED. IT'S  
25 CHARGED AS ON OR ABOUT MARCH 29TH. THE ACTUAL CLAIM, I THINK,

1 BY THE TIME IT WAS RECEIVED AND PROCESSED, WAS APRIL 1ST. SO  
2 THE INSURANCE COMPANIES INDICATE IT WAS PROCESSED ON APRIL 1ST.

3 BUT THERE'S A DEFINITION THAT DEFINES ON OR ABOUT AND IT  
4 DOESN'T HAVE TO BE THE EXACT DATE IF YOU LOOK AT THE  
5 DEFINITION. THIS IS A DIFFERENCE OF TWO DAYS BETWEEN WHEN THE  
6 CLAIM WAS SUBMITTED AND WHEN IT WAS PROCESSED, WHICH IS WHAT  
7 WAS REFLECTED BY THE INSURANCE COMPANIES.

8 AND IF YOU LOOK AT THE EOB AT 33-347 -- I HAVE THE WRONG  
9 DATE. CAN WE SCROLL BACK, PLEASE? AGAIN, PLEASE. ACTUALLY,  
10 THAT'S -- THAT'S FINE. LET'S GO TO THE SOURCE SPREADSHEET.  
11 40A, ROW 5712.

12 SO SCROLL OVER, IT'S MASTANEH HABIBI. KEEP SCROLLING TO  
13 THE DATES. CARE PURPORTEDLY PROVIDED ON THE 29TH. CAN WE KEEP  
14 SCROLLING TO WHEN IT WAS SUBMITTED?

15 THERE WE GO. THERE'S THE SUBMISSION DATE, APRIL 1ST. OR  
16 WHEN IT WAS, YEAH, RECEIVED BY THE INSURANCE COMPANY.

17 SO WHAT'S FALSE ABOUT THIS CLAIM? IT'S -- YOU KNOW, IT  
18 CLAIMS CARE WITH AN INAPPROPRIATE CPT CODE, AND ALSO THE CARE  
19 THAT WAS PROVIDED ON A WEEKEND. AND YOU'VE HEARD, YOU KNOW --  
20 AND YOU CAN CONFIRM THAT AT 153-7. IT SHOWS THAT THAT CARE WAS  
21 CLAIMED TO HAVE BEEN PROVIDED ON A WEEKEND.

22 AND IF YOU LOOK AT THIS -- JUST PAUSE FOR A SECOND --  
23 THERE'S ACTUALLY A SERIES OF CLAIMS MADE THIS DAY FOR  
24 MS. HABIBI RIGHT HERE, AND IF YOU SCROLL OVER, THEY'RE THE  
25 29TH, 30TH, AND 31ST. SO IT'S NOT JUST THE 29TH. IT'S NOT

1 JUST THE 30TH. THERE'S THREE CLAIMS SUBMITTED THAT DAY. IF  
2 YOU SCROLL TO THE LEFT, THERE THEY ALL ARE.

3 SO MS. HABIBI IS BEING -- HER INSURANCE AS BEING BILLED AS  
4 IF SHE WAS SEEN ALL THESE DAYS IN A ROW, AND TWO OF THOSE DAYS  
5 ARE THE WEEKEND. WE LOOKED AT THAT EARLIER AND I ASKED YOU TO  
6 KEEP IN MIND THE 29TH WAS A SATURDAY AND THE 30TH WAS A SUNDAY.  
7 YOU CAN LOOK BACK AT THAT AT 153-7. THAT CLAIM IS FALSE.

8 AND THE NEXT ONE IS AN ANN DWAN CLAIM. AND THIS IS EOB --  
9 CAN WE LOOK AT 36-101?

10 SO THIS IS A CLAIM THAT WAS RECEIVED ON MAY 12TH --  
11 THERE'S A SERIES OF THEM. WE'VE ALREADY TALKED ABOUT, IN  
12 COUNT FIVE, A CLAIM FOR CARE ON 2-17.

13 BUT THIS COUNT CHARGES THE CARE ALLEGEDLY PROVIDED ON THE  
14 19TH, AND AS WE TALKED ABOUT EARLIER, MS. DWAN UNEQUIVOCALLY  
15 TESTIFIED SHE WAS OUT OF THE COUNTRY ALMOST THE ENTIRETY OF  
16 FEBRUARY, PARTICULARLY SHE WAS GONE IN THE MIDDLE OF IT. SHE  
17 WAS IN ENGLAND THAT SHE RECALLED. THAT CLAIM IS FALSE.

18 YOU CAN CORROBORATE WHAT IS CLAIMED IN THAT, OR IDENTIFIED  
19 IN THAT EOB IS BACKED UP BY THE SOURCE SPREADSHEETS AT 42G,  
20 ROW 3947.

21 AND THE LAST OF THE GANESH PATIENT FALSE CLAIMS IN THIS  
22 GROUP IS CARE ALLEGEDLY PROVIDED TO MS. KAKKAR.

23 CAN WE PULL UP EXHIBIT 32-657?

24 9-19. AND THIS CHARGES, AGAIN, THE CARE -- THE CLAIM IS  
25 SUBMITTED ON THE 12TH -- THIS IS THE KAKKAR -- THIS TIME ON THE

1 19TH, A DIFFERENT CLAIM.

2 AND WE LOOKED AT THIS EARLIER, I WON'T PUT IT BACK UP.  
3 REMEMBER, THIS IS -- YOU KNOW THIS IS FALSE FOR A NUMBER OF  
4 REASONS, INAPPROPRIATE USE OF 99245, BUT ALSO THE CRAZY PATTERN  
5 HERE OF CLAIMS SUBMITTED ON 12-10 FOR A SERIES OF PATIENTS ALL  
6 HAD CLAIMS SUBMITTED ON THE 10TH TO THEIR INSURANCE COMPANIES  
7 AS IF THEY WERE SEEN ON THE 14TH, 17TH, 19TH, AND 21ST. ALL  
8 THOSE CLAIMS ARE FALSE. THIS ONE IS FALSE AS WELL. AND YOU  
9 HEARD MS. KAKKAR'S TESTIMONY ABOUT NOT BEING SEEN THAT OFTEN.

10 YOU CAN ALSO -- AND JUST FOR YOUR REFERENCE, THAT SOURCE  
11 SPREADSHEET IS 15B AT 3291.

12 THE LAST TWO FALSE CLAIMS UNDER THIS STATUTE ARE BELCHER  
13 PATIENTS, DR. BELCHER PATIENTS.

14 CAN WE TOGGLE TO THE ELMO, MADAM COURTROOM DEPUTY, PLEASE?

15 THE CLERK: YES, COUNSEL.

16 MR. DELAHUNTY: THERE WAS -- COUNT FIFTEEN, IT WAS  
17 THE CARE SUBMITTED ON DECEMBER 10TH, 2012, SPECIFICALLY THE  
18 CLAIM OF SERVICE BEING ON THE 19TH.

19 AND THE LAST TWO COUNTS ARE FOR DR. BELCHER, AND THEY  
20 RELATE TO A CLAIM SUBMITTED ON NOVEMBER 26TH, 2013 FOR  
21 MS. HABIBI, AND A CLAIM SUBMITTED ON AUGUST 8TH, 2014 FOR  
22 MR. KELLEY.

23 SO IN COUNT SIXTEEN -- IF WE CAN PLEASE SHOW EXHIBIT  
24 89-309 -- THERE'S THE CLAIM. IT WAS RECEIVED ON NOVEMBER 26TH.  
25 IT WAS PAID OUT --

1 THE COURT: IS IT ON YOUR MONITORS?

2 JUROR: NO.

3 THE COURT: OH.

4 MR. DELAHUNTY: WE HAVE ANOTHER --

5 THE CLERK: ALL OF THEM ARE DARK?

6 LET ME RESET THE SYSTEM, COUNSEL.

7 MR. DELAHUNTY: NO PROBLEM. THANK YOU, MADAM

8 COURTROOM DEPUTY.

9 THE CLERK: MY APOLOGIES.

10 (PAUSE IN PROCEEDINGS.)

11 JUROR: YEAH.

12 MR. DELAHUNTY: OKAY. THANK YOU, MADAM COURTROOM

13 DEPUTY.

14 THERE'S THE EOB. REMEMBER, \$217 IS PAID OUT HERE.

15 YOU CAN CORROBORATE WHAT'S IN THE EOB AND COMPARE IT TO

16 THE SOURCE SPREADSHEET. IT MATCHES. I'M NOT GOING TO PULL

17 THAT UP. LET'S KEEP MOVING. IT'S AT 40A-9154 THROUGH 58.

18 AND IF WE GO TO THE GOOGLE CALENDAR, WHAT'S INTERESTING --

19 THAT CLAIM WAS ON THE 23RD. I'D ASK YOU TO KEEP THAT IN MIND.

20 IF WE GO TO 44-150, THE 23RD IS A SATURDAY. NO ONE IS

21 THERE ON THE SATURDAYS.

22 BUT WHY WAS IT BILLED THAT DAY? WELL, IT'S THE SAME

23 PATTERN. IT'S THE SPLITTING OF THE CLAIMS.

24 YOU HEARD THE TESTIMONY THAT MONA REFERS TO MS. HABIBI.

25 SHE'S THERE TWICE ON THE FRIDAY. AND, IN FACT, IF YOU GO A

1 COUPLE PAGES FORWARD TO 153, IT WILL SHOW THAT SHE'S ALSO THERE  
2 TWICE ON THE MONDAY. THERE'S MS. HABIBI AND THERE'S  
3 MS. HABIBI.

4 ONCE AGAIN, CLAIMS ARE SPLIT AND FALSELY -- AND INSURANCE  
5 COMPANIES ARE FALSELY BILLED FOR CARE THAT WAS NOT PROVIDED.  
6 THAT CLAIM IS FALSE.

7 AND ALSO, YOU CAN CORROBORATE THIS BY LOOKING AT THE  
8 SIGN-IN SHEETS. THERE ISN'T ONE FOR 11-23, BUT IF YOU LOOK AT  
9 THE RANGE OF 108B, 495 THROUGH 502, IT SKIPS THOSE DATES AS YOU  
10 WOULD EXPECT BECAUSE THE OFFICE IS CLOSED.

11 LASTLY, COUNT SEVENTEEN IS WITH REGARD TO THE CLAIM  
12 SUBMITTED ON AUGUST 8TH, 2014, FOR CARE ON 7-29. THAT'S  
13 REFLECTED AT EOB 34-791. AND IN PARTICULAR, IT'S THE BOTTOM  
14 HALF OF THIS. AND IT'S THE 7-29 SERVICE. THIS TIME A LITTLE  
15 LESS IS PAID, \$133, STILL COMFORTABLY MORE THAN ANY MASSAGE  
16 THERAPIST IS PAID.

17 AND YOU CAN CORROBORATE THE INFORMATION HERE, AND I'D ASK  
18 YOU TO LOOK AT THIS AGAIN. THE CPT CODES JUMP AROUND. IT'S  
19 NOT THE SORT OF CODES THAT THE INSURANCE COMPANY HAVE TESTIFIED  
20 ARE APPROPRIATE FOR MASSAGE THERAPY IN THEIR VIEW. IT'S NOT  
21 THE 140 AND THE 124.

22 BUT REGARDLESS, NO ONE WAS SEEN THIS DAY. MR. HABIBI --  
23 OR MR. KELLEY WAS NOT THERE.

24 YOU CAN CORROBORATE WHAT'S SEEN HERE IN THE EOB IN THE  
25 SOURCE SPREADSHEET, AND VICE-VERSA, AT 39B, 58-125.

1 BUT IF YOU LOOK AT 44-92, NOBODY IS THERE ON 7-29.  
2 THERE'S NO ENTRIES. NO ONE CAME IN THAT DAY.

3 IN FACT, THERE'S NO SIGN-IN -- THIS ISN'T A GOOGLE  
4 CALENDAR FAILURE, EITHER. IF YOU LOOK AT THE SIGN-IN SHEETS,  
5 108C 410 THROUGH 415 -- IF WE CAN PULL THOSE UP REAL QUICK.

6 SO THAT -- THAT REFLECTS 7-24. CAN WE JUST SCROLL  
7 FORWARD? 7-24. SCROLL FORWARD, PLEASE. 7-24. FORWARD AGAIN,  
8 PLEASE. 7-25. FORWARD, PLEASE. ONE MORE, PLEASE. SORRY.  
9 AND THEN TO 7-30.

10 SO IT JUMPS THE 29TH. NO ONE IS THERE. THAT PATIENT  
11 ISN'T SEEN THAT DAY. MICHAEL KELLEY WASN'T SEEN THAT DAY.  
12 THAT CLAIM IS FALSE.

13 SO YOU KNOW ALL THOSE CLAIMS ARE FALSE. YOU'VE SEEN IT.  
14 IT'S SHOWN OVER AND OVER AGAIN. ALL 16 ARE FALSE.

15 AND WE TALKED ABOUT THE EVIDENCE THAT SHOWS THAT THEY WERE  
16 KNOWINGLY SUBMITTED FALSELY, THEY WERE WILLFULLY SUBMITTED  
17 FALSELY, AND THEY WERE SUBMITTED WITH AN INTENT TO DEFRAUD. WE  
18 TALKED ABOUT THAT EVIDENCE ALREADY.

19 SO NOW WHAT I'D LIKE TO DO IN MY LAST PORTION OF TIME I  
20 HAVE IS TALK ABOUT THE MONEY LAUNDERING.

21 SO WHAT'S MONEY LAUNDERING? IT'S BASICALLY A PERSON  
22 GETTING PROCEEDS FROM A CRIME AND THEN TRYING TO, IN THIS  
23 INSTANCE, CONCEAL THAT THEY GOT PROCEEDS FROM A CRIME.

24 AND THAT'S WHAT HAPPENED HERE. THERE IS NO DOUBT ABOUT  
25 THAT.

1 IF YOU LOOK, FIRST OF ALL, AT THE PATTERN AND THE EFFORT  
2 TO CONCEAL, IT'S GOT A COUPLE DIFFERENT STEPS. FIRST OF ALL,  
3 MONEY COMES INTO 8753, WHICH IS THE KRD ACCOUNT.

4 AND REMEMBER, THERE'S -- WHY DESIGNATE IT KRD IN 2011?  
5 AND IT'S NOT SPENT OUT OF THAT. CHECKS AREN'T CUT, EXPENSES  
6 AREN'T PAID, RENT'S NOT PAID FOR KRD.

7 YOU'RE ASKED TO BELIEVE THAT WAS THE BRAND. BUT IF IT'S  
8 THE BRAND, WHY DIDN'T YOU PAY THE RENT OUT OF THAT ACCOUNT?  
9 WHY NOT PAY YOUR UTILITIES OUT OF THAT ACCOUNT? IT JUST  
10 DOESN'T HAPPEN.

11 INSTEAD, ALL THAT HAPPENS IN 8753 IS THE MONEY IS SHUTTLED  
12 INTO OTHER ACCOUNTS, USUALLY 7654, WHICH IS THE DR. BELCHER  
13 ACCOUNT.

14 AND THIS HAPPENS ON MULTIPLE, MULTIPLE TIMES.

15 WHAT IS CHARGED IN THE INDICTMENT IS A SERIES OF  
16 TRANSACTIONS WHERE CASHIER'S CHECKS ARE POOLED, TAKEN ALL  
17 TOGETHER, AND THEN AT ONE TIME DEPOSITED INTO 7654 AND THEN  
18 IMMEDIATELY, ONCE THE MONEY HITS 7654, THEN IT'S SPENT.

19 THE QUESTION IS, WHY DIDN'T YOU SPEND IT RIGHT AWAY WHEN  
20 IT WAS THERE? WHY DIDN'T YOU GET A CHECKBOOK? WHY DIDN'T YOU  
21 WRITE A CHECK OUT OF THERE? ISN'T THAT MORE CONVENIENT?

22 INSTEAD THERE'S THIS REAL DELIBERATE EFFORT TO POOL THE  
23 MONEY, MOVE IT, AND THEN SPEND IT. GET IT AS FAR AWAY FROM  
24 KRD'S ASSOCIATION AS POSSIBLE BEFORE USING IT.

25 AND THIS PATTERN IS SHOWN THROUGHOUT THE TRANSACTIONS, BUT



1 THE ONE THAT IS CHARGED IS REFLECTED IN EXHIBIT 132, AND THIS  
2 REFLECTS A SERIES OF CASHIER'S CHECKS OBTAINED AT VARIOUS  
3 POINTS IN TIME AND THEN DEPOSITED ALL ON OR ABOUT APRIL 19TH --  
4 EXCUSE ME -- NOVEMBER 19TH IN DR. BELCHER'S 7654 ACCOUNT, AND  
5 THEN IMMEDIATELY, ONCE IT HITS, A CHECK IS CUT THAT DAY TO  
6 DOLAN DEVELOPMENT.

7 SO THAT'S THE PATTERN OF HOW THAT MONEY WAS USED. YOU  
8 KNOW THAT CHART'S RELIABLE. YOU'VE SEEN THE UNDERLYING  
9 DOCUMENTS. IF YOU LOOK AT, FOR EXAMPLE, 74-1329 -- NOW, ONE  
10 THING -- CAN I JUST PAUSE HERE?

11 ONE THING THAT'S REALLY INTERESTING ABOUT THIS IS YOU'RE  
12 BEING ASKED TO BELIEVE -- AND THIS HAS BEEN SAID A NUMBER OF  
13 TIMES -- THAT DR. BELCHER, WELL, HE DIDN'T REALLY QUITE DO WHAT  
14 DR. GANESH DID. HE NEVER OBTAINED A CASHIER'S CHECK AND THEN  
15 WAITED TWO YEARS TO DEPOSIT IT. YOU HEARD THAT TESTIMONY.

16 THAT IS UNTRUE. THAT IS ABSOLUTELY NOT TRUE, AND IT IS  
17 SHOWN RIGHT HERE IN THESE DOCUMENTS. THIS CHECK RIGHT HERE,  
18 WITHDRAWN BY DR. BELCHER APRIL -- 10-19-2011, DEPOSITED BY HIM  
19 TWO YEARS LATER AT THE END OF 2013. OBTAINED BY BELCHER,  
20 DEPOSITED TWO YEARS LATER. DR. BELCHER CANNOT CREDIBLY TESTIFY  
21 THAT HE DIDN'T DO IT THE SAME WAY THAT DR. GANESH DID IT.

22 AND HOW DO YOU KNOW THAT WAS DR. BELCHER? WELL, YOU FIRST  
23 OF ALL HEARD MS. KIKUGAWA EXPLAIN THE BASIS FOR THESE AND HOW  
24 SHE WENT AND LOOKED AT THE WITHDRAWAL SLIPS AND LOOKED AT THE  
25 CHECKS THEMSELVES.

1 BUT IT'S EVIDENT RIGHT ON THE FACE OF THE CHECK. IF YOU  
2 LOOK AT 74-1329 -- ACTUALLY, IF WE CAN GO -- WELL, THIS IS THE  
3 WHOLE GROUP OF THE CHECKS, RIGHT? THERE'S THE DEPOSIT OF  
4 \$92,000, THERE'S CHECK ONE, CHECK TWO, CHECK ONE -- CAN WE ZOOM  
5 IN ON THESE A LITTLE BIT, PLEASE?

6 15,000.

7 CAN WE GO TO THE NEXT ONE?

8 20,000. 12,000.

9 OKAY. GO TO THE NEXT PAGE, PLEASE. ZOOM IN ON ALL THREE,  
10 PLEASE.

11 OKAY. NOW, HERE'S THE REST OF IT, 23,000, 15,000, 7,000.  
12 THAT ADDS UP TO 92,000.

13 WHAT I REALLY WANT TO FOCUS IN ON IS THE TOP ONE. CAN WE  
14 ZOOM IN ON THAT?

15 PURCHASED BY GREGORY LAMONT BELCHER, PAYABLE TO  
16 DR. GANESH.

17 BUT WHO IS THE ONE THAT DEPOSITS THIS CHECK? IT'S  
18 DR. BELCHER INTO HIS ACCOUNT 7654. OBTAINED BY DR. BELCHER  
19 OCTOBER 19TH, 2011.

20 YOU -- IT IS FALSE TESTIMONY BY DR. BELCHER TO REPRESENT  
21 TO YOU THAT HE NEVER DID THIS THE WAY DR. GANESH DID. HE  
22 ABSOLUTELY DID. AND THAT SHOULD SERIOUSLY WEIGH UPON HIS  
23 CREDIBILITY TO YOU AND WHETHER HE HAS BEEN ACCURATE IN HIS  
24 TESTIMONY TO YOU.

25 THIS PATTERN OF POOLING CHECKS AND DEPOSITING IN 7654,

1 IT'S NOT ISOLATED. IT HAPPENS OTHER TIMES. FOR EXAMPLE, IF  
2 YOU LOOK AT 74-1338, SAME THING. THIS IS THAT CHECK, THE MONEY  
3 THAT'S GOING TO CHICAGO TITLE. AGAIN, A SERIES OF CASHIER'S  
4 CHECKS ARE POOLED, THERE'S THE DEPOSIT, THERE'S ONE, TWO,  
5 THREE.

6 IF YOU GO TO THE NEXT PAGE, THERE'S THE REST OF THE  
7 CHECKS. IT ADDS UP TO \$100,000.

8 YOU CAN SEE THEN THE CHECK WAS CUT RIGHT AWAY. IF YOU  
9 LOOK AT 74-2023, THERE'S THE CHECK IN THE MIDDLE, \$100,000, CUT  
10 THE 26TH. THE MONEY COMES IN AT THE SAME TIME, IT'S ALL POOLED  
11 TOGETHER THE SAME WAY.

12 STILL BEGS THE QUESTION, WHY DIDN'T YOU JUST GET A CHECK  
13 OUT OF THE SOURCE OF THE MONEY? OR IF YOU'RE POOLING THESE  
14 CASHIER'S CHECKS AT BANK OF AMERICA, JUST POOL THEM RIGHT BACK  
15 INTO BANK OF AMERICA OR CUT THE CHECK IF YOU NEEDED TO  
16 CONSOLIDATE FUNDS? WHY DRIVE AROUND TOWN AND DO IT THIS WAY?

17 I'LL GET TO THAT. THERE'S A NUMBER OF REASONS WHY THAT  
18 SHOW THERE WAS A REAL EFFORT TO SORT OF DO IT THIS WAY AND TAKE  
19 THESE STEPS, AND ONLY TAKE THESE STEPS ON THIS ACCOUNT AND THIS  
20 MONEY, AND I'M GOING TO GET BACK TO THAT.

21 BUT MAKE NO MISTAKE. THAT'S NOT HOW BUSINESS WAS DONE IN  
22 OTHER ACCOUNTS. IT'S ONLY DONE ON THE KRD ACCOUNTS. IT'S ONLY  
23 DONE WITH MONEY ASSOCIATED WITH KRD, AND THAT KRD MONEY, AS  
24 YOU'VE SEEN -- WELL, LET'S LOOK AT THAT. OKAY.

25 CAN WE GO, PLEASE, TO 51-1751?

1           THIS IS THE SIGNATURE CARD. YOU'VE SEEN THIS A LOT. THIS  
2 IS THE 8753 IS OPENED UP FOR GANESH MD DOING BUSINESS AS  
3 KUHLMAN, RILEY & DEWEES, NEVER MIND THAT IT'S NEVER ON THE DOOR  
4 AND YOU HAVEN'T SEEN ANY LETTERHEAD WITH THAT. IT'S, YOU KNOW,  
5 IT'S NOT CREDIBLE THAT THIS IS JUST THE BRAND.

6           THERE'S TWO SIGNERS, GANESH AND BELCHER. YOU HEARD THE  
7 TESTIMONY EVEN FROM MS. KINSEL, THAT'S EQUAL POWER TO BOTH,  
8 EQUAL CONTROL.

9           AND IT'S OPENED IN 2000 -- MAY OF 2011.

10          AND THEN YOU SAW MS. KIKUGAWA'S ANALYSIS OF 128,  
11 EXHIBIT 128 THAT SHOWS THE MAJORITY OF THE MONEY, IF NOT ALMOST  
12 ALL OF IT, COMES FROM TWO INSURANCE COMPANIES, ANTHEM  
13 BLUE CROSS AND BLUE SHIELD OF CALIFORNIA. JUST THOSE TWO  
14 INSURERS, THE ONES THAT THERE ARE PROBLEMS WITH, THE ONES THAT  
15 WERE BEING BILLED OUT AS IF IT'S DEWEES PROVIDING THE CARE,  
16 WHICH YOU'VE SEEN THAT AND YOU KNOW WHEN THAT STARTED IN 2011  
17 AND YOU KNOW THAT'S ALL FALSE.

18          THAT'S ALL FRAUDULENT MONEY COMING IN. YOU'VE SEEN THAT  
19 INSURANCE COMPANIES WERE -- THOSE TWO INSURANCE COMPANIES WERE  
20 BILLED AS IF DR. DEWEES PROVIDED THE CARE, PAID THE CLAIMS.  
21 MONEY COMES IN TO 8753, THAT IS ALL DIRTY MONEY.

22          SO WHAT HAPPENS THEN? THE MONEY FLOWS IN, BUT IT'S NOT  
23 USED -- IT'S MOVED. GOT TO GET IT OUT OF THERE AS KR. I  
24 MEAN, EXCUSE ME. HERE'S THE INTERESTING THING. MONEY ALL  
25 COMES IN TO KR. BECAUSE THAT'S APPARENTLY THE BRAND.

1           BUT YOU KNOW WHAT? IT NEVER GOES OUT AS KRD MONEY. IT  
2 ALWAYS COMES OUT AS GANESH MD MONEY OR MADE PAYABLE TO  
3 DR. GANESH OR CAMPBELL MEDICAL GROUP. IT NEVER COMES OUT  
4 PAYABLE TO KUHLMAN, RILEY & DEWEES.

5           IF THAT'S REALLY THE BRAND, WHY DON'T YOU TREAT THE MONEY  
6 THAT WAY ALL THE WAY THROUGH? WHY DO YOU MAKE AN EFFORT TO  
7 NOT -- TO CHANGE THE ASSOCIATION OF THE MONEY?

8           IT'S AN EFFORT TO CONCEAL THE SOURCE. THAT'S WHAT'S GOING  
9 ON WITH THIS MONEY.

10          YOU ALSO KNOW THAT THERE'S AN EFFORT TO CONCEAL THE MONEY  
11 HERE BECAUSE WHEN YOU LOOK AT EXHIBIT 129, THIS SHOWS ALL OF  
12 THE CASHIER'S CHECK TRAFFIC AND WHICH ACCOUNTS. IF YOU SCROLL  
13 THROUGH IT, IT SHOWS BOFA 6781, 800,000 IN CASHIER'S CHECKS  
14 THERE. THAT'S A LOT.

15          GO TO THE NEXT PAGE, PLEASE.

16          AND THIS STARTS THE ANALYSIS OF 8753, EVEN MORE CASHIER'S  
17 CHECKS. A LOT -- ALMOST -- LOOK AT ALL THE ONES WITHDRAWN BY  
18 BELCHER THERE.

19          AND THEN -- EXCUSE ME, DR. BELCHER. PARDON ME.

20          NEXT PAGE. THE TOTAL HERE ON THIS ACCOUNT OF CASHIER'S  
21 CHECKS, 865,000, AGAIN, A LOT OF MONEY IN ONLY THOSE TWO  
22 ACCOUNTS, AND BOTH ARE ASSOCIATED WITH KUHLMAN, RILEY & DEWEES,  
23 AND WE CAN LOOK AT THE SIGNATURE CARD IN A MOMENT FOR 6781 THAT  
24 SHOWS THAT AS WELL.

25          BUT IF WE SCROLL THROUGH, HERE IS THE CASHIER'S CHECK

1 TRAFFIC FOR 3526, AND THIS IS THE DONALD HEAD ACCOUNT.  
2 REMEMBER THIS, THIS STORY? YOU KNOW, ALL THE MONEY WAS  
3 REFUNDED, THE \$800,000 FROM DONALD HEAD, AND RIGHT AT THE SAME  
4 TIME, IT'S NOT PUT BACK IN ANY OTHER ACCOUNT, IT'S PUT IN THIS  
5 NEW ACCOUNT CREATED AT THE END OF JANUARY 2014 AND THEN PULLED  
6 OUT IMMEDIATELY, TWO WEEKS LATER, IN CASHIER'S CHECKS.

7 WHY GO THROUGH THE TROUBLE OF THAT? WHY OPEN A NEW  
8 ACCOUNT, GET THE MONEY IN THERE, AND THEN START PULLING IT OUT,  
9 AGAIN, IF THE INTENT IS NOT TO CONCEAL?

10 THERE'S THE DATE THAT THEY'RE ALL PURCHASED, RIGHT THERE  
11 AT THE BEGINNING OF FEBRUARY. THERE'S TWO KIND OF A MONTH  
12 LATER. BUT ALMOST ALL OF THE MONEY, ALMOST ALL OF THE 800,000  
13 IS PULLED OUT WITHIN TWO WEEKS OF THE ACCOUNT OPENING.

14 AND THEN THE ONLY OTHER CASHIER'S CHECK TRAFFIC IS IN A  
15 BANK OF THE WEST ACCOUNT, AND THIS IS THE NEXT PAGE, AND THIS  
16 IS THE 2127 ACCOUNT.

17 AND THIS DOES HAVE SOME CASHIER'S CHECK TRAFFIC, BUT YOU  
18 KNOW WHAT'S REALLY INTERESTING IS APART FROM ONE OR TWO CHECKS,  
19 THERE'S NO -- THERE'S A 13 ONE, AND THERE'S A 13 AND A 13 AND A  
20 COUPLE DOWN HERE. IT'S ALMOST ALL BEFORE 2011.

21 ALL THE CASHIER'S CHECK TRAFFIC IS SHIFTED TO THE KRD  
22 ACCOUNT IN 2011. AND I MENTIONED EARLIER THAT THE 6781  
23 ACCOUNT, THAT'S ALSO A KRD ACCOUNT. THAT'S ALSO THE OTHER ONE  
24 ASSOCIATED WITH KRD.

25 CAN WE LOOK AT 51-1753? 51, PLEASE.

1           THERE'S THE SIGNATURE CARD FOR 6781. ACCOUNT TITLE,  
2           DR. GANESH MD, D.B.A. CAMPBELL, D.B.A. KUHLMAN, RILEY & DEWEES.  
3           BOTH DR. BELCHER AND DR. GANESH ARE ON THERE, OPENED WITHIN  
4           DAYS OF THE OTHER KRD ACCOUNT.

5           AND THAT'S THE ANALYSIS OF THE CASHIER'S CHECK TRAFFIC.  
6           IT IS CONCENTRATED IN THE TWO KRD ACCOUNTS.

7           YOU HEARD FROM MS. KIKUGAWA. SHE LOOKED AT ALL 22  
8           ACCOUNTS, AND THIS IS -- YOU SAW THE SUMMARY OF THE USE OF  
9           CASHIER'S CHECKS. IT'S CONCENTRATED ON THE KRD ACCOUNT. IT'S  
10          CONCENTRATED ON ACCOUNTS THAT HAVE MONEY COMING IN ASSOCIATED  
11          WITH KRD.

12          NOW, YOU ALSO KNOW THAT THIS USE OF MONEY IN CASHIER'S  
13          CHECKS, IT'S NOT BUSINESS PRACTICE -- IT'S NOT STANDARD  
14          PRACTICE FOR EITHER DOCTOR. IT'S CERTAINLY NOT HOW DR. BELCHER  
15          SAID HE USES MONEY.

16          BUT YOU KNOW WHAT? IT'S NOT HOW DR. GANESH USES IT,  
17          EITHER. OKAY? IT'S ONLY HOW -- CASHIER'S CHECKS AND THIS  
18          MOVEMENT OF FUNDS AND THIS POOLING ONLY HAPPENED IN THE KRD  
19          ACCOUNTS, AND THE WAY YOU KNOW THIS IS BECAUSE OF THE SARATOGA  
20          LASER ACCOUNT, AND YOU HEARD DR. BELCHER'S TESTIMONY THAT THIS,  
21          TOO, IS A JOINT ACCOUNT FOR A DR. GANESH BUSINESS ENTITY. IT'S  
22          HER -- I THINK IT'S THE FACIAL TYPE OF PRACTICE AND THE MONEY  
23          THAT COMES IN THERE, THE SARATOGA LASER ACCOUNT, THAT'S A  
24          JOINT -- THAT'S A GANESH ENTITY AND THE ACCOUNT IS CONTROLLED  
25          BY BOTH DOCTORS.

1           BUT YOU KNOW WHAT? TWO THINGS. THERE'S NO KRD ON THAT  
2 ACCOUNT AND THERE'S NO CASHIER'S CHECKS COMING OUT OF IT.

3           SO IF YOU WERE TO BELIEVE THAT DR. GANESH JUST HAS A WEIRD  
4 BANKING PRACTICE, THAT CAN ONLY BE SQUARED IF SHE HAD IT ACROSS  
5 HER ACCOUNTS, AND SHE DIDN'T. SHE ONLY HAD IT ON -- LET ME  
6 REPHRASE THAT.

7           BOTH DOCTORS ONLY HAD IT ON THE KRD ACCOUNT. DR. BELCHER  
8 WAS ASKED ABOUT SARATOGA LASER AND HE TOLD YOU THAT THERE WAS  
9 LIMITED, IF ANY, CASHIER'S CHECK TRAFFIC THERE.

10           AND WHEN YOU LOOK AT IT, IT'S NOT THAT THERE WASN'T A  
11 LARGE AMOUNT OF MONEY COMING OUT OF THAT ACCOUNT. IT HAPPENED  
12 ALL THE TIME. IT'S NOT THAT THERE WASN'T, THERE WASN'T ENOUGH  
13 MONEY TO GET A CASHIER'S CHECK. DR. BELCHER FREQUENTLY  
14 WITHDREW LARGE SUMS OF MONEY FROM THAT ACCOUNT AND MADE IT  
15 PAYABLE TO 7654.

16           BUT HE DIDN'T DO IT WITH A CASHIER'S CHECK. HE DIDN'T  
17 TAKE THE MULTIPLE STEPS. HE DID IT HOW YOU THINK HE WOULD DO  
18 IT. HE JUST CUT A CHECK TO HIMSELF. AND YOU'VE SEEN A LOT OF  
19 EXAMPLES OF THIS. I'LL JUST GO THROUGH A COUPLE.

20           CAN WE GO TO 74-1390?

21           THERE'S THE SARATOGA LASER CHECK, \$65,000, MADE PAYABLE TO  
22 GREG BELCHER, SIGNED BY DR. BELCHER, DEPOSITED INTO 7654.

23           THAT -- ALL RIGHT. THAT IS -- THERE'S A \$65,000 CHECK. IT  
24 WASN'T USED THE SAME WAY THE OTHERS ONE DO.

25           I'LL JUST GO THROUGH A COUPLE MORE. 74-1324, PLEASE.



1           AGAIN, \$8,000 CHECK, SARATOGA LASER. THAT'S A GANESH  
2 BUSINESS ENTITY. THEY'RE BOTH ACCOUNT HOLDERS. DR. BELCHER  
3 WRITES IT, DR. BELCHER SIGNS IT, DEPOSITED IT TO HIMSELF,  
4 \$8,000.

5           WE CAN LOOK AT -- THERE'S A LOT OF EXAMPLES -- 74-1288.

6           NOW, THIS IS A \$10,000 CHECK, SARATOGA LASER,  
7 GREG BELCHER, SEPTEMBER 28, 2013. AGAIN, A GANESH ENTITY,  
8 JOINT ACCOUNT. BUT NO CASHIER'S CHECK. LARGE TRANSFERS, NOT  
9 DOING IT WITH THE CASHIER'S CHECKS.

10           I WON'T GO THROUGH -- WE'RE GETTING CLOSE TO LUNCH, SO  
11 I'LL JUST GIVE YOU SOME MORE CHECKS YOU CAN LOOK AT WHEN YOU  
12 DELIBERATE.

13           THERE IS A \$5,000 CHECK, SAME PATTERN, AT 74-1316.  
14 THERE'S ANOTHER \$10,000 CHECK AT 74-1261. THERE'S ANOTHER  
15 \$5,000 CHECK AT 74-1182. THERE'S A \$12,000 CHECK AT 74-1151.  
16 ALL THOSE CHECKS, 65,000, 8,000, 5,000, 10,000, 10,000, 5,000,  
17 \$12,000, EVERY TIME DR. BELCHER WRITES A CHECK TO HIMSELF OUT  
18 OF SARATOGA LASER, DOESN'T USE A CASHIER'S CHECK.

19           SO HIS WHOLE EXPLANATION THAT HE HAD TO DEFER TO  
20 DR. GANESH AS TO HOW SHE WANTED TO USE MONEY IN HER ACCOUNT AND  
21 THE WAY SHE WANTED TO USE IT WAS WITH A CASHIER'S CHECK IS  
22 FALSE. THAT IS NOT HOW IT HAPPENED. THAT'S NOT WHAT HAPPENED  
23 IN SARATOGA LASER, AND THE DIFFERENCE IS MEANINGFUL BECAUSE  
24 SARATOGA LASER ISN'T A KRD ACCOUNT, AND THE KRD ACCOUNTS ARE  
25 TREATED DIFFERENTLY AND THEY ARE TREATED DIFFERENTLY TO CONCEAL

1 THE SOURCE OF THE MONEY.

2 THE DEFENDANTS ARE CHARGED ALSO WITH A CONSPIRACY ON THIS,  
3 ON THESE TRANSACTIONS, AND YOU KNOW THAT THERE WAS A CONSPIRACY  
4 HERE. THE DOCTORS SET UP THE ACCOUNT TOGETHER AT THE SAME  
5 TIME. THE DOCTORS OBTAINED CASHIER'S CHECKS, BOTH OF THEM,  
6 SOMETIMES MADE PAYABLE TO EITHER, SOMETIMES DR. BELCHER  
7 OBTAINED IT AND MADE IT PAYABLE TO DR. GANESH. YOU SAW THAT.

8 AND THEN THE MONEY WAS FREQUENTLY, EVEN THOUGH IT WAS  
9 ASSOCIATED WITH CAMPBELL MEDICAL GROUP AND KRD, DEPOSITED  
10 ULTIMATELY IN DR. BELCHER'S ACCOUNT.

11 SO THERE IS COORDINATION AND COOPERATION AND AN AGREEMENT  
12 HERE. THAT'S A CONSPIRACY.

13 AND IT IS MONEY LAUNDERING BECAUSE THE DEFENDANTS  
14 KNOWINGLY CONCEALED THE SOURCE OF THE MONEY BY MOVING IT AWAY  
15 AND DISASSOCIATING IT WITH KRD, GETTING IT FAR AWAY, AND THEN  
16 USING IT. THAT'S WHAT THEY DID WITH THE KRD MONEY.

17 AND THEY DIDN'T TAKE THAT APPROACH WITH MONIES OBTAINED  
18 ELSEWHERE, AND THAT IS THE EVIDENCE THAT THEY INTENTIONALLY  
19 TRIED TO CONCEAL THE SOURCE OF THE FRAUD, AND THE FRAUD IS THE  
20 GENERATING OF MONEY BY CLAIMING THAT DR. DEWEES SAW A PATIENT,  
21 GETTING THAT PAID OUT, PUTTING IT IN 8753 FROM THE TWO  
22 INSURANCE COMPANIES.

23 THAT'S THE MONEY LAUNDERING. IT STANDS ALONE. IT IS  
24 BEYOND A REASONABLE DOUBT THAT IT PROVES THE GUILT ON THAT.

25 BUT YOU CAN ALSO TAKE THAT AS CIRCUMSTANTIAL EVIDENCE OF

1 THE INTENT TO DEFRAUD ON THE MONEY ITSELF. IF YOU THOUGHT THAT  
2 YOU LEGITIMATELY OBTAINED THE MONEY, WHY ARE YOU TRYING TO  
3 CONCEAL IT?

4 SO THE MONEY LAUNDERING IS ALSO PROBATIVE, I MEAN, IT  
5 HELPS ILLUSTRATE THE FACT THAT THERE WAS AN INTENT TO DEFRAUD  
6 WITH ALL THOSE CLAIMS BEING SUBMITTED TO INSURERS AS IF  
7 DR. DEWEES HAD SEEN IT OR THE 99245.

8 SO AT THE END OF THE DAY, THE EVIDENCE IS OVERWHELMING AND  
9 SUPPORTS ONE VERDICT HERE. THESE DOCTORS CONSPIRED WITH EACH  
10 OTHER TO DEFRAUD HEALTH CARE COMPANIES. THEY DID IT THROUGH  
11 MYRIAD FALSE CLAIMS, FALSE CLAIMS SUBMITTED ON DR. GANESH'S  
12 PATIENTS TO BLUE SHIELD AND ANTHEM, IT WAS ALL POOLED AS KRD  
13 MONEY, DIDN'T COME OUT AS KRD MONEY, THAT WAS CONCEALED, MOVED  
14 INTO ANOTHER ACCOUNT THAT WASN'T ASSOCIATED WITH KRD AND SPENT,  
15 AND THAT WAS MONEY LAUNDERING. THAT IS CONCEALMENT.

16 AND YOU MIGHT HEAR AN ARGUMENT THAT NO ONE WAS MAKING ANY  
17 MONEY HERE. YOU KNOW THAT MONEY WAS MADE. YOU SAW THE  
18 \$850,000.

19 YOU MIGHT HEAR AN ARGUMENT THAT PHYSICAL THERAPY DOESN'T  
20 MAKE A LOT OF MONEY. WELL, YOU'LL SEE IN THE INSTRUCTIONS,  
21 THERE IS NO REQUIREMENT THAT SOMEBODY HAS TO BE GOOD AT  
22 STEALING. THEFT DOES NOT HAVE TO BE PROFITABLE.

23 AND, IN FACT, IF YOU BELIEVE DR. BELCHER THAT HE WASN'T  
24 MAKING MONEY ON PHYSICAL THERAPY, ALL THAT IS IS A MOTIVE TO  
25 CHEAT, AND WHEN YOU GET THE INSTRUCTIONS ON HEALTH CARE FRAUD,

1 IT INCLUDES THE INSTRUCTION THAT THAT IS ONE WAY TO INTERPRET  
2 AN INTENT TO DEFRAUD, OR SCHEME TO DEFRAUD, IS AN INTENT TO  
3 CHEAT.

4 AND IF DR. BELCHER IS TO BE BELIEVED THAT HE WASN'T MAKING  
5 ANY MONEY ON PHYSICAL THERAPY, THAT'S A BIG INCENTIVE TO START  
6 CUTTING CORNERS.

7 SO FOR ALL THOSE REASONS, THE GOVERNMENT ASKS YOU TO  
8 RETURN THE ONLY VERDICT SUPPORTED BY THE EVIDENCE, WHICH IS  
9 GUILT ON ALL COUNTS.

10 THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MR. HOROWITZ, YOU WOULD ONLY HAVE, LIKE, SIX MINUTES. DO  
13 YOU STILL WANT TO START?

14 MR. HOROWITZ: THAT'S ALL RIGHT.

15 THE COURT: OKAY.

16 MR. HOROWITZ: I WON'T GO LONG.

17 THE COURT: OKAY. BUT YOU WANT TO GO JUST UNTIL  
18 NOON?

19 MR. HOROWITZ: I'LL JUST START --

20 THE COURT: OR DO YOU WANT TO GO UNTIL -- ONE OPTION  
21 IS WE COULD TAKE A QUICK BREAK AND YOU COULD GO TO 12:30. WE  
22 CAN GO TO LUNCH LATE.

23 MR. HOROWITZ: I'M FINE -- WHAT'S BEST FOR EVERYBODY  
24 ELSE?

25 THE COURT: WHAT WOULD YOU PREFER? I WOULD --

1 MR. HOROWITZ HAS GRACIOUSLY AGREED TO START, UNDERSTANDING THAT  
2 THERE'S GOING TO BE A BREAK FOR LUNCH.

3 MR. HOROWITZ: DO YOU WANT TO DO 15 MINUTES AND THEN  
4 BREAK?

5 THE COURT: CAN WE GO TO 12:15? WOULD THAT BE ALL  
6 RIGHT? ANYONE NEED TO TAKE A BREAK NOW? MR. GUTIERREZ, DO YOU  
7 NEED A BREAK?

8 ALL RIGHT. THEN LET'S GO TO 12:15. THANK YOU.  
9 GO AHEAD, PLEASE.

10 MR. HOROWITZ: THAT'S TERRIFIC, YOUR HONOR.

11 **(MR. HOROWITZ GAVE HIS CLOSING ARGUMENT ON BEHALF OF**  
12 **DEFENDANT GANESH.)**

13 MR. HOROWITZ: I'M GOING TO ULTIMATELY USE THIS ELMO  
14 WHEN WE GET A CHANCE, BUT LET ME START BY THANKING EACH OF YOU  
15 FOR SITTING HERE AND PAYING ATTENTION -- I'M SURE AT TIMES I  
16 WAS BORING OR VAGUE IN THINGS -- AND IT'S YOUR TIME, BUT IT'S  
17 IMPORTANT TIME. I THINK YOU UNDERSTAND HOW IMPORTANT THIS CASE  
18 IS TO EVERYBODY INVOLVED, AND SO THANK YOU FOR THAT. AND I'LL  
19 TAKE AS LITTLE OF YOUR TIME IN A WASTING WAY AS POSSIBLE, BUT I  
20 THINK THERE'S SOME VERY IMPORTANT POINTS THAT I CAN MAKE.

21 AND I'D LIKE TO ALSO THANK THE COURT AND STAFF AND ALL THE  
22 ATTORNEYS HERE BECAUSE THIS CAN BE A DIFFICULT PROCESS, AND I  
23 THINK WHAT YOU'RE SEEING IS IMPORTANT IN THE SENSE THAT YOU'VE  
24 GIVEN SO MUCH, BUT EVERYONE HERE HAS DONE THEIR JOB THE RIGHT  
25 WAY. IT'S NOT LIKE ON TV OR WHAT YOU READ IN THE PAPER WHERE

1 ONE SIDE CHEATS AND THE OTHER -- IT'S BEEN A TOTALLY FAIR,  
2 WONDERFUL PROCESS, AND I WANT TO KEEP IT THAT WAY BY THE WAY I  
3 DO MY ARGUMENT.

4 NOW, IF YOU LOOK AT THE INSTRUCTIONS, UNDER 3.9, YOU KNOW,  
5 LOOKING AT WITNESS CREDIBILITY, YOU CAN CONSIDER ANYTHING IN  
6 EVIDENCE TO DECIDE IF DR. GANESH OR DR. BELCHER ARE TELLING THE  
7 TRUTH.

8 SO I WANT TO SAY THANK YOU TO DR. BELCHER IN THAT CONTEXT  
9 OF THAT INSTRUCTION, BUT I WANT TO PHRASE IT MY WAY BECAUSE  
10 THIS IS HOW I TALK. YOU KNOW ME A LITTLE BIT.

11 DR. BELCHER, THANK YOU. THANK YOU FOR YOUR SERVICE TO  
12 THIS COUNTRY, FOR JOINING THE NAVY. AND EVEN AFTER YOUR  
13 MEDICAL BILLS WERE PAID, YOUR SCHOOL BILLS WERE PAID, YOU GAVE  
14 US ANOTHER 17 YEARS TO HIT 20, OPERATING ON SERVICE PEOPLE WHO  
15 WERE INJURED, WHO WERE VERY SCARED, WHEN YOU WERE AWAY FROM  
16 YOUR FAMILY, AWAY FROM YOUR CHILDREN. THANK YOU FOR THAT.  
17 WHILE I WAS JUST RUNNING AROUND EARNING MONEY, BUILDING MY  
18 CAREER, YOU WERE SACRIFICING FOR US. THANK YOU.

19 AND I THANK YOU FOR STANDING BY DR. GANESH DURING HER HARD  
20 TIMES, DURING HER MENTAL ILLNESS, AND NOT ABANDONING HER AND  
21 NOT LEAVING HER AND NOT TAKING AWAY THE ONLY THING SHE REALLY  
22 HAS LEFT AT THIS POINT, WHICH IS HER FAMILY AND HER CHILDREN.  
23 SO THANK YOU FOR THAT AS WELL.

24 THIS CASE, WE HAVE NO DISPUTE THAT DR. GANESH HAS MENTAL  
25 ILLNESS. NONE. AND I'M GOING TO PICK APART A LITTLE BIT THE

1 PROOF THAT THE GOVERNMENT MADE, BUT ULTIMATELY, THAT'S NOT  
2 WHERE YOU'RE GOING TO GO BECAUSE YOU KNOW THAT THE BILLINGS ARE  
3 MESSED UP.

4 I DON'T THINK THE SPREADSHEETS ARE GOOD. I DON'T THINK  
5 THAT THE INSURANCE COMPANIES WERE VERY FAIR HERE. THE ONE THAT  
6 STICKS IN MY BRAIN IS ANTHEM. THEY DON'T SEND THE BILLERS, THE  
7 COMMUNICATORS, THE PEOPLE WHO REACHED OUT TO DR. GANESH. THEY  
8 SEND BASICALLY AN INVESTIGATOR WHO GETS ON THE STAND AND SAYS,  
9 "OH, THE SPREADSHEETS ARE GREAT. THEY WORK. THEY'RE  
10 ACCURATE."

11 I DON'T KNOW IF THEY ARE OR ARE NOT. SHE DIDN'T DO THEM.  
12 AND THEN SHE ADMITS -- SHE DOESN'T VOLUNTEER, BUT SHE  
13 ADMITS THEY ONLY PAID 8 PERCENT OF DR. GANESH'S BILLS.

14 SO WHAT YOU'VE GOT, IN MY OPINION, IS YOU'VE GOT SOMEBODY  
15 WHO'S REALLY OUT THERE, NOT IN THEIR RIGHT MENTAL STATE,  
16 MESSING UP OVER AND OVER AGAIN. AND I -- I WROTE THIS DOWN,  
17 THE CONCEPT OF A FREUDIAN SLIP.

18 I DON'T EVEN KNOW IF SIGMUND FREUD, AS THE GREAT  
19 PSYCHIATRIST, EVER INVENTED THE FREUDIAN SLIP OR IF IT'S JUST  
20 SOMETHING WE USE. BUT THE DICTIONARY SAYS A FREUDIAN SLIP IS A  
21 BEHAVIOR OR A SPEECH THAT COMES OUT WITHOUT ANY THOUGHT OR  
22 PLANNING AND IT REVEALS A HIDDEN THOUGHT OR A HIDDEN MOTIVE,  
23 SOMETHING INSIDE.

24 WELL, I HEARD A FREUDIAN SLIP RIGHT HERE IN THIS COURTROOM  
25 THIS MORNING. MR. DELAHUNTY WAS TALKING ABOUT COUNT FIFTEEN

1 THAT INVOLVES MS. KAKKAR AND EXHIBIT 15B, ITEM 3291. HE  
2 DESCRIBED THAT AS THE CRAZY PATTERN OF CLAIMS. THAT CAME OUT  
3 OF HIS MOUTH.

4 AND THAT FREUDIAN SLIP TELLS YOU THE DIFFERENCE BETWEEN  
5 WHAT YOU REALLY SAW IN THIS CASE, WHICH IS A PATHETIC, AWFUL,  
6 TERRIBLE DISSENT INTO A TYPE OF MADNESS BY A PERSON WHO HAD  
7 STRUGGLED VERY HARD TO OVERCOME SOME VERY REAL AND MEANINGFUL  
8 DISABILITIES.

9 AND, YES, THERE'S A LOT OF EVIDENCE THAT WHAT SHE  
10 SUBMITTED WAS WRONG. BUT NOBODY WHO IS A CROOK, A DELIBERATE  
11 CROOK, IS EVER GOING TO BILL ON SATURDAY, SATURDAY, SATURDAY,  
12 SUNDAY, SATURDAY, SUNDAY, SUNDAY, SATURDAY, HOLIDAY IN THE WAY  
13 THAT SHE DID. IT IS NOT A SIGN OF BEING A CROOK. IT IS A SIGN  
14 OF SENDING THE BILLS OVER AND OVER AND OVER AGAIN.

15 AND ONE THING YOU NEVER SAW ON THOSE SPREADSHEETS, BUT YOU  
16 HEARD IN THE EVIDENCE -- NOT FROM ME, NOT FROM MR. DELAHUNTY,  
17 FROM THE EVIDENCE -- IS THAT -- AND THAT WAS BROUGHT OUT, I  
18 THINK MR. HICKEY BROUGHT IT OUT -- THANK YOU -- BECAUSE I  
19 DIDN'T, I SHOULD HAVE, BUT YOU SUBMIT THE BILLS, YOU GET A  
20 NUMBER, TRACKING NUMBER.

21 I FIGURED THEN YOU GET THE SAME NUMBER WHEN YOU RESUBMIT  
22 IT, AND THEN I FIGURED YOU GET THE SAME NUMBER WHEN YOU SUBMIT  
23 IT AND THEY WANT MORE DOCUMENTATION.

24 WELL, WHAT WE LEARNED IS THAT THEY GET A NEW NUMBER EACH  
25 TIME. THOSE SPREADSHEETS DIDN'T REALLY TRACK THE BILLS AND THE



1 REBILLS AND HOW MANY TIMES PEOPLE GOT PAID.

2 AND YOU NEVER SAW IN EVIDENCE, WHAT DID THEY ACTUALLY  
3 SUBMIT WHEN THEY WERE FAXING 30 THINGS AT ONCE, 40 THINGS AT  
4 ONCE?

5 NOBODY IS BEING DEFRAUDED. IT IS BASICALLY A TOTAL CHAOS.  
6 IT IS AN OFFICE WITH PEOPLE WHO DON'T KNOW A THING ABOUT  
7 BILLING, WHO ARE BEING TOLD TO BILL THE HIGHEST CODE BECAUSE  
8 THEN THE INSURANCE COMPANIES DISCOUNT IT AND THEN THEY DON'T  
9 PAY IT AND THEN WE GET PAID WHAT WE'RE SUPPOSED TO BE PAID.  
10 THAT'S THE LOGIC.

11 DR. GANESH WAS ON THE STAND AND YOU SAW ME TRY TO GET  
12 SOMETHING OUT OF HER MOUTH THAT WAS, LIKE, RATIONAL AND LOGICAL  
13 STEP BY STEP, AND SOME THINGS CAME OUT EVENTUALLY, BUT NOT VERY  
14 WELL. AND I DON'T THINK SHE WAS CONSISTENT IN, IN HALF OF WHAT  
15 SHE SAID, AND SHE'S UP HERE FIGHTING FOR EVERYTHING SHE'S GOT.  
16 THAT'S HOW SHE WAS WHEN SHE WAS FIGHTING FOR EVERYTHING ON THE  
17 LINE. THAT WAS THE BEST SHE COULD DO.

18 SHE WALKED INTO THAT -- SHE COMES FROM INDIA. SHE HAD A  
19 PROTECTED CHILDHOOD. YOU HEARD IT. IT IS A DIFFERENT COUNTRY,  
20 PARTICULARLY BACK THEN. THERE WAS CORRUPTION. THE  
21 CONSTITUTION GUARANTEES HEALTH CARE. IT'S A DIFFERENT WORLD.

22 AND SHE LANDS ON THESE SHORES AND TRIES TO BE HER DREAM, A  
23 DOCTOR, AND SHE DOES IT.

24 BUT TO THINK THAT SHE THEN CAN WALK INTO OUR COMPLEX  
25 BILLING SYSTEM WITH INSURANCE COMPANIES AND THE BATTLES BETWEEN

1 INSURANCE COMPANIES AND PAYING AND NOT PAYING AND OBAMA CARE  
2 AND EVERYTHING ELSE -- WE PASSED OBAMA CARE. DOES ANYBODY HERE  
3 EVEN KNOW WHAT IT IS?

4 SHE HAD TO LIVE IN THAT WORLD, AND SHE LIVED IN THE  
5 PRE-OBAMA CARE WORLD AND WITH BILLINGS AND THE CODES CHANGE.

6 WHAT DOES SHE KNOW? SHE KNOWS THAT DR. DEWEEES HAD A  
7 TEMPLATE. WE KNOW IT'S A SUPERBILL. SHE CHECKS THE BOXES AND  
8 THEN HALF THE TIME THEY DON'T GET PAID.

9 OKAY. SHE KNOWS RESEND IT. RESEND IT. THAT'S WHAT SHE  
10 KNOWS. THAT'S ALL SHE KNOWS.

11 AND I SAID RIGHT IN MY OPENING, YOU KNOW, NOT TO SAY WHAT  
12 THE LAW IS, BUT JUST AS A COMMON CONCEPT, THE DEFINITION OF  
13 INSANITY IS TO DO THE SAME THING OVER AND OVER AGAIN AND NOT  
14 HAVE ANYTHING CHANGE AND THINK THAT IT WILL. IT DIDN'T CHANGE.

15 I SAT DOWN, WHILE MR. DELAHUNTY WAS DOING HIS THING -- YOU  
16 KNOW, NO DISRESPECT, BUT I HAVE A SHORT ATTENTION SPAN -- AND  
17 SO I ACTUALLY WENT THROUGH SOME OF THESE SPREADSHEETS, AND YOU  
18 CAN DOUBLE-CHECK, BUT I -- YOU KNOW, YOU CAN SORT THEM. YOU'LL  
19 HAVE A COMPUTER SO YOU CAN CLICK -- I THINK YOU CLICK ON "DATA"  
20 AND THEN IT'LL EITHER LET YOU SORT OR, TO THE RIGHT, IT'LL LET  
21 YOU SELECT WHICH FIELDS YOU KEEP IN OR DON'T KEEP IN.  
22 HOPEFULLY SOMEBODY KNOWS HOW TO USE EXCEL. IF NOT, WE'LL  
23 FIGURE IT OUT.

24 BUT I WENT THROUGH SOME OF THESE SPREADSHEETS TO SEE HOW  
25 MUCH GOT PAID AND HOW MUCH DIDN'T GET PAID.

1 SO, BLUE SHIELD, RIGHT, 39A IS CAMPBELL MEDICAL GROUP,  
2 THEY PAID ZERO ON 951 OUT OF 1779 CLAIMS. THEY PAID LESS THAN  
3 HALF, ZERO.

4 AND THEN A LOT OF THE CLAIMS THEY'RE PAYING, LIKE, \$10,  
5 20, 38. YOU KNOW, THEY'RE NOT EVEN PAYING A WHOLE LOT OF  
6 MONEY.

7 39B WAS BELCHER.

8 39C, 17 OUT OF 57 -- THAT'S UNDER DEWEES -- WERE ZERO.

9 THEN ON GANESH, 39B, 138 OUT OF 179, ZERO.

10 ALL RIGHT. I'VE GOT MORE, BUT I'LL STOP THERE FOR A  
11 SECOND.

12 I NEVER SAID THAT THE DEWEES ACCOUNT WAS A BRAND NAME.  
13 THAT'S WHAT MR. DELAHUNTY ARGUED, "AND THEY SAID IT'S A BRAND  
14 NAME. IT'S NOT A BRAND NAME. THEY WERE TRYING TO DEFRAUD THE  
15 INSURANCE COMPANY."

16 I NEVER SAID IT WAS A BRAND NAME. I'M ONLY GOING TO TELL  
17 YOU WHAT'S TRUE IN MY MIND. I'M NOT GOING TO SAY SOMETHING  
18 STUPID. I THINK THAT THEY USED DEWEES AS A PERSON AND KRD  
19 BECAUSE SHE WASN'T GETTING PAID WHEN IT WAS UNDER HER NAME. IT  
20 WAS NOT TO CHEAT ANYBODY. SHE FIGURED THE CONTRACTS WERE UNDER  
21 KRD, OR THE CONTRACTS WERE UNDER DEWEES, HER CONTRACTS WERE  
22 CANCELLED AND SHE'S GOING, "I DID THE WORK, SO I'LL SUBMIT IT  
23 UNDER THIS NUMBER."

24 NOW, I THINK WHEN YOU LOOK AT THE 1500'S, IT HAS THE  
25 PROVIDER, DR. GANESH, IT'S GOT HER NUMBER, AND THEN IT HAS THE

1 COMPANY NUMBER, KRD OR DEWEES.

2 BUT EVEN IF IT DIDN'T, THE POINT IS, SHE'S DOING THE WORK  
3 AND SHE'S SUBMITTING IT.

4 SO IF SHE'S TRYING TO -- IT'S JUST ONE OF THOSE THINGS  
5 WHERE THE INSURANCE COMPANIES ARE PUTTING UP BARRIERS TO PAYING  
6 HER. THEY'VE GOT THEIR WAY OF DOING IT. I GET IT.

7 BUT THE DEFINITION OF, OF GUILT IN THIS CASE -- AND YOU'VE  
8 GOT TO GO TO THE COURT'S INSTRUCTIONS BECAUSE I AM NOT A LEGAL  
9 SCHOLAR AND THE COURT IS THE ONLY ONE WHO TELLS YOU WHAT THE  
10 LAW IS.

11 BUT AS I'M REMEMBERING IT SITTING HERE, AND YOU'LL READ  
12 IT, SHE HAS TO INTEND TO CHEAT SOMEBODY OUT OF SOMETHING SHE'S  
13 NOT ENTITLED TO DO. IF SHE IS TREATING THESE PATIENTS FOR  
14 REALLY LONG PERIODS AND SHE'S GOT A TOUGH PATIENT LOAD OF  
15 PEOPLE WITH LOTS OF PROBLEMS AND THERE'S A SIGNIFICANT  
16 IMMIGRANT POPULATION OF PEOPLE WHO HAD GARBAGE HEALTH CARE  
17 PROBABLY IN THE COUNTRY THEY CAME FROM AND THEY'RE SUFFERING  
18 NOW, THEY WORKED HARD TO GET SOME HEALTH CARE HERE AND THEY  
19 DESERVE TO BE TREATED RIGHT, WHAT'S SO WRONG WITH HER SPENDING  
20 A LOT OF TIME WITH THEM AND THEN SAYING "I DESERVE TO BILL \$300  
21 OR \$200"? THEY REDUCE IT ANYWAY. LOOK AT THE SPREADSHEETS.  
22 THEY REDUCE IT RIGHT FROM THE GET-GO.

23 AND THEN HALF OF THE TIME, BECAUSE IT'S ON THE WRONG DAY  
24 OR SHE DOESN'T HAVE THE RIGHT CONTRACT, SHE'S NOT GETTING PAID.

25 BUT WHAT DOES SHE DO, THIS CROOK THAT THEY CALL HER? WHEN

1 MICHAEL KELLEY TESTIFIED, "I CHECKED. I SAID, DR. GANESH,  
2 YOU'RE NOT GETTING PAID." WHAT DID MICHAEL KELLEY DO? HE  
3 SAID, "CAN I HELP?"

4 SHE SAYS, "I'LL TAKE CARE OF IT. BUT DON'T WORRY, I WILL  
5 STILL TREAT YOU," AND SHE DID.

6 THAT IS NOT WHAT A CROOK DOES. SHE IS A PERSON WHO HAS  
7 SEVERE ISSUES AND A GREAT HEART. HER ISSUES MAKE HER VERY,  
8 VERY UNPLEASANT TO BE AROUND FOR A LOT OF PEOPLE. I GET IT. I  
9 GET IT. NO HUMAN BEING CAN TURN OFF WHAT YOU'VE PROBABLY BEEN  
10 WATCHING, ALL THE FIDGETING AND EVERYTHING ELSE.

11 THAT DOESN'T MEAN SHE'S A BAD PERSON. SHE IS DOING THE  
12 BEST SHE CAN. AND YOU CAN JUDGE IT BY THE FACT THAT EVEN WITH  
13 HER DISABILITIES, THE PATIENTS, ONE AFTER ANOTHER, SAID THAT  
14 "SHE GAVE ME GOOD CARE." AND THAT MEANS A LOT.

15 I'LL TALK A LITTLE BIT ABOUT A CHEAP SHOT THAT I SAW IN MY  
16 OPINION -- AND IT'S NO PERSONAL ATTACK ON THE PROSECUTORS --  
17 BUT IT'S A CONCEPT IN YOUR BRAIN BECAUSE DR. BELCHER WAS  
18 CHALLENGED ABOUT HOW HE HANDLED THE DIFFERENT BANK ACCOUNTS AND  
19 ALL THESE EXPLANATIONS THAT MR. DELAHUNTY CAME UP WITH FOR THIS  
20 MONEY LAUNDERING, THAT THEY'RE LAUNDERING THE MONEY.

21 AND I'M SITTING THERE GOING, WELL, HE'D SCORE REALLY WELL  
22 ON DR. FRIEDMAN'S TESTS.

23 BUT HOW ABOUT, IF YOU HAD A QUESTION ABOUT THESE ISSUES,  
24 INSTEAD OF HOLDING THEM FOR CLOSING, YOU HAD BELCHER ON THE  
25 STAND. WHY DIDN'T YOU SAY TO HIM, "WHY DID THEY ALL COME OUT

1 OF THIS ACCOUNT? WHY DID YOU DO THIS? WHY DID YOU DO THAT?"

2 ANYTHING THAT YOU'RE HEARING IN CLOSING FOR THE FIRST TIME  
3 AS AN ATTACK ON DR. BELCHER OR ON DR. GANESH, YOU'VE GOT TO ASK  
4 YOURSELF, IS IT IN EVIDENCE? IS THERE EVIDENCE THAT THEY DID  
5 THAT, THAT THING WRONG? OR IS IT JUST LIKE, OH, WELL, YOU  
6 WOULDN'T DO THAT, A REASONABLE PERSON WOULDN'T MOVE THE CHECKS  
7 HERE AND HOLD THEM FOR THREE MONTHS AND THEN USE IT TO PAY  
8 MR. DOLAN BECAUSE A REASONABLE PERSON WOULD PAY IT RIGHT OUT OF  
9 YOUR -- WHATEVER HE SAID, YOU KNOW, IT'S BRILLIANT.

10 BUT IT'S NOT IN EVIDENCE AND IT'S, LIKE, HIS FIGURING OUT  
11 STUFF.

12 BUT HE HAD BELCHER AND GANESH ON THE STAND. HE COULD HAVE  
13 ASKED THEM.

14 SO JUST BECAUSE HE'S SMARTER THAN ME OR BECAUSE HE'S  
15 SMARTER IN THAT AREA THAN ME AND HE CAN PUT THAT TOGETHER, THAT  
16 DOESN'T CHANGE THE CORE FACT THAT HE'S GOT THE BURDEN OF PROOF,  
17 NOT BY BEING SMARTER THAN ME, BUT BY PUTTING EVIDENCE ON THAT  
18 STAND OR IN FRONT OF YOU THAT YOU CAN ACTUALLY SEE THE EVIDENCE  
19 BEYOND A REASONABLE DOUBT.

20 AND THAT IS A BIG DIFFERENCE AND A BIG PART OF HIS CLOSING  
21 ARGUMENT IS, IS TAKING EVIDENCE THAT IS A MESS AND PUTTING IT  
22 TOGETHER IN A FASHION THAT I RESPECT -- AND I'M NOT SAYING IT'S  
23 A LIE, IT'S NOT, IT'S THE TRUTH -- BUT TEN SMART PEOPLE CAN  
24 COME UP WITH TEN SMART TRUTHS ON EVIDENCE THIS VAGUE AND IT  
25 DOESN'T MAKE SOMEBODY BAD OR WRONG AT ALL.

1           THERE'S A SPREADSHEET, 122, THAT I DON'T REALLY KNOW WHAT  
2           THAT SPREADSHEET IS BASED ON OR WHAT -- THE COMPUTER IT CAME  
3           FROM. BUT IT WAS PUT TOGETHER BY SOMEBODY TRUSTWORTHY AND IT  
4           APPEARS TO COMBINE ALL THE PATIENTS IN THE INDICTMENT AND SOME  
5           OF THE DATA FROM THE SPREADSHEETS.

6           YOU KNOW, WHETHER IT'S COMPLETE OR NOT COMPLETE, EVEN ON  
7           ITS FACE, IT'S INTERESTING BECAUSE ON THAT ONE, THERE WERE LOTS  
8           OF CHARGE BACKS. YOU ACTUALLY SEE THAT, YOU KNOW, THERE ARE  
9           PAYMENTS MADE ON THESE SPREADSHEETS.

10          BUT SOMETIMES THERE'S NEGATIVE PAYMENTS, YOU KNOW, THE  
11          LITTLE BRACKETS AROUND THE NUMBER, AND IF YOU DO A SORT ON IT,  
12          YOU KNOW, THE BRACKETS WITH THE NUMBER COME FIRST, LOWEST, THEN  
13          ZERO, THEN, LIKE, \$12 AND \$29 AND THEN IT GOES UP TO 300.

14          BUT THE POINT IS THAT THERE WERE CHARGE BACKS WHICH THEY  
15          NEVER EXPLAINED ON THE WITNESS STAND, "WE PAID OUT THIS MUCH,"  
16          AND THEN THEY WOULD NOT PAY OUT OTHER TIMES OR EVEN CHARGE  
17          BACK.

18          I DON'T KNOW WHAT'S GOING ON WITH THAT. I'M JUST SEEING  
19          IT ON A SPREADSHEET. I CAN READ A SPREADSHEET. I KNOW WHAT A  
20          CHARGE BACK IS OR WHAT A NEGATIVE IS. THEY NEVER TOLD US WHAT  
21          THAT'S ABOUT.

22          AND ON THAT -- THESE ARE KIND OF MY ROUGH NOTES -- I THINK  
23          ABOUT HALF WERE NOT PAID. OR, YOU KNOW -- HERE WE GO. 452  
24          WERE NOT PAID. 105, THE PAYMENTS WERE UNDER \$40. AND THEN  
25          THEY PAID 524 OF THOSE BILLINGS ON THEIR KIND OF AMALGAMATED

1 SPREADSHEET.

2 SO, AGAIN, THIS GOES BACK TO -- AND MR. DELAHUNTY MADE A  
3 VERY GOOD POINT. YOU CAN BE A BAD CROOK AND STILL BE A CROOK.

4 BUT IT ALSO GOES TO THE POINT THAT IF YOU DO THE SAME  
5 THING OVER AND OVER AND GET THE SAME RESULT, NO PAY OR CHARGE  
6 BACKS, THEN THAT SHOWS THAT THERE'S SOMETHING WRONG UP HERE.

7 AND MAYBE THIS WOULD BE A GOOD TIME TO STOP. MY NEXT  
8 PHASE IS GOING TO BE TALKING ABOUT THE THREE DOCTORS WE HEARD  
9 AND SHOWING YOU HOW THEY BASICALLY ALL AGREE.

10 MY ONLY CRITICISM OF DR. GLEZER IS THAT SHE TRIED TO THROW  
11 A BONE TO THE GOVERNMENT ABOUT THAT DRUG PRESCRIPTION,  
12 LEGITIMATE, FAIRLY MILD AMPHETAMINE. BUT BASICALLY EVERYTHING  
13 SHE SAID AND SAW WE ALL AGREE, WE'RE ALL ON THE SAME PAGE.

14 BUT WE CAN DO THAT PERHAPS AFTER LUNCH.

15 THE COURT: OKAY. ALL RIGHT. THANK YOU.

16 IT IS NOW 12:12. LET'S GO AHEAD AND TAKE A BREAK UNTIL  
17 1:15. WE'LL CONTINUE WITH CLOSING ARGUMENTS AT THAT TIME.

18 DO NOT RESEARCH OR DISCUSS THE CASE. THANK YOU FOR YOUR  
19 PATIENCE AND YOUR SERVICE.

20 (JURY OUT AT 12:12 P.M.)

21 THE COURT: THANK YOU. LET'S TAKE OUR BREAK NOW AS  
22 WELL.

23 MR. NEDROW: THANK YOU, YOUR HONOR.

24 (THE LUNCH RECESS WAS TAKEN FROM 12:13 P.M. UNTIL  
25 1:19 P.M.)



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**AFTERNOON SESSION**

(JURY IN AT 1:19 P.M.)

THE COURT: ALL RIGHT. WELCOME BACK. PLEASE TAKE A SEAT.

ALL RIGHT. MR. HOROWITZ, IF YOU WOULD PLEASE CONTINUE.

MR. HOROWITZ: THANK YOU.

HELLO.

SO WHAT I HAVE -- THIS IS MY PREVIEW -- I PUT THAT THERE TO MAKE YOU SMILE, AND THANK YOU FOR COMING BACK.

THE CLERK: COUNSEL, THEY DIDN'T SEE THAT. MY APOLOGIES. I'LL PUT IT ON.

MR. HOROWITZ: I HAD "DAN'S SECRET NOTES" BECAUSE OVER LUNCH, YOU KNOW, I CAME ACROSS SOMETHING I WANTED TO SHOW YOU, AND IT'S OUT OF ORDER. IT'S OUT OF TIME.

BUT WHEN YOU GO THROUGH SOME OF THESE RECORDS, LIKE EXHIBIT 34 AT PAGE 444, WHAT YOU'RE GOING TO SEE IS THAT SOME OF THESE PAYMENTS ARE MADE TO THE PATIENT, SOME OF THE CHECKS ARE ISSUED TO THE PATIENT, NOT THE DOCTORS.

AND THEY MAY NOT ADD UP TO A HILL OF BEANS IN TERMS OF WHETHER DR. GANESH SUBMITTED BILLINGS THAT WERE MESSED UP, BUT IT IS PART OF MY PRESENTATION SUGGESTION THAT THEIR CASE IS NOT COMING FROM THE INSURANCE COMPANIES WITH COMPLETE CLARITY AND ACCURACY, BECAUSE IF YOU'RE LOOKING AT THAT SAYING, "WHAT'S THAT ABOUT?" THE ANSWER IS, I DON'T KNOW. IT'S IN THE EXHIBIT 34, PAGE 444. AND THERE'S A BUNCH OF THEM, INCLUDING

1 SOME WITH SUNIL SONI.

2 SO I DON'T THINK YOU SHOULD HAVE A COMPLETE COMFORT LEVEL  
3 THAT THESE INSURANCE AGENT WITNESSES CAME HERE AND TOLD YOU THE  
4 WHOLE PICTURE, BECAUSE PROBABLY THEY DON'T EVEN KNOW THE WHOLE  
5 PICTURE. THEY BASICALLY -- WE GOT A BUNCH OF SPREADSHEETS FROM  
6 SOMEBODY, THEY CAME UP THERE, THEY SAID, "YEAH, WE'RE IN THE  
7 FRAUD UNIT AND THIS IS THE KIND OF SPREADSHEET WE USE," AND NOW  
8 RELY UPON IT, YOU KNOW, IN EVIDENCE. SO THAT'S INTERESTING.

9 ALL RIGHT. WHAT I SAID WAS I WAS GOING TO GO OVER  
10 DR. LEVINSON AND DR. GLEZER AND DR. FRIEDMAN. I THINK THE WAY  
11 I WANT TO LOOK AT THAT, BECAUSE IT'S -- I THINK THE ULTIMATE  
12 ISSUE REALLY IS, HOW IMPAIRED IS SHE, NUMBER ONE? AND, TWO --  
13 AND THIS IS A VERY HONEST QUESTION AND I'M NOT GOING TO TRY  
14 TO -- IT'S AN HONEST QUESTION. IS SHE SO IMPAIRED, OR IS THE  
15 IMPAIRMENT THAT SHE HAS SUFFICIENT TO EXPLAIN WHY THESE  
16 BILLINGS WERE DONE CRAZY, BUT NOT CRIMINALLY? RIGHT? YOU CAN  
17 SIT THERE AND SAY, "YOU KNOW WHAT? SHE REALLY IS SEVERELY  
18 IMPAIRED, BUT SHE VIOLATED THE LAW NEVERTHELESS. SHE KNEW WHAT  
19 SHE WAS DOING. SHE COULD HAVE CONFORMED HER BEHAVIOR. AND I  
20 FEEL BAD FOR HER, BUT PITY IS NOT A BASIS TO VOTE NOT GUILTY."  
21 THAT COULD BE WHERE YOU END UP, AND I HOPE YOU DON'T FOR THE  
22 REASONS THAT I GIVE YOU.

23 I THINK WHAT YOU'RE ACTUALLY DEALING WITH IS SOMEBODY WHO  
24 IS IMPAIRED THE WAY A REALLY BRIGHT AUTISTIC KID MIGHT BE  
25 IMPAIRED, BUT WE'RE REALLY USED TO DEALING WITH AUTISM NOW.

1 BUT IMAGINE HOW AUTISTIC PEOPLE WHO ARE ON THE SPECTRUM, BUT  
2 MAYBE NOT REALLY EXTREME, LIKE WITH RAINMAN -- YOU KNOW, IF  
3 YOU'VE SEEN THE MOVIE, DUSTIN HOFFMAN IS SO EXTREME, EVERYBODY  
4 KNOWS THE GUY'S IMPAIRED EVEN THOUGH HE CAN DO MATH IN HIS  
5 HEAD.

6 BUT WE NOW KNOW THAT KIDS ON THE SPECTRUM, OR PEOPLE ON  
7 THE SPECTRUM, CAN FUNCTION IN LIFE, BUT THEY HAVE REAL DEFICITS  
8 THEY CANNOT OVERCOME.

9 SAME THING WITH ATTENTION DEFICIT DISORDER AND MANY OTHER  
10 NEUROLOGICAL CONDITIONS THAT THEN INTERPLAY WITH SOCIOLOGICAL  
11 AND OTHER CONDITIONS.

12 SO THIS IS A DIFFICULT TASK FOR YOU, AND MAYBE -- SHOULD I  
13 TALK ABOUT THE JURY INSTRUCTION, THE DIFFERENCE BETWEEN  
14 INSANITY AND MENTAL STATE? I THINK I SHOULD.

15 THE JUDGE'S INSTRUCTIONS ARE ACTUALLY CLEAR ON THIS TO  
16 LAWYERS, AND IF YOU HAVE ANY QUESTION ABOUT WHAT I'M SAYING OR  
17 WHAT THE RULES ARE, YOU KNOW, JUDGE KOH WILL ANSWER ANY  
18 QUESTION AND MAKE SURE THAT YOU RULE ON THE LAW.

19 BUT THE WAY THAT I CONCEIVE OF THIS TO BE PROPERLY  
20 GIVEN -- AND I INVITE EVERYBODY TO OBJECT IF I'M WRONG, I WON'T  
21 BE OFFENDED -- THERE IS NO BURDEN OF PROOF ON THE DEFENSE  
22 EXCEPT FOR THE INSANITY DEFENSE.

23 SO YOU'VE GOT THE FRAUD CHARGES. ALL THESE CHARGES  
24 REQUIRE A CERTAIN STATE OF MIND TO DO THEM. CERTAIN CRIMES,  
25 LIKE DRUNK DRIVING, YOU DON'T HAVE TO SAY, "I'M GOING TO DRINK

1 SO MUCH THAT I'M ABOVE THE LIMIT AND THEN PURPOSELY DRIVE." IF  
2 YOU JUST DRINK THE ALCOHOL AND DRIVE, IF YOU ALSO HAPPEN TO BE  
3 OVER THE LIMIT, THEY GOT YOU, YOU'RE GUILTY.

4 BUT CRIMES OF THIS TYPE REQUIRE A BAD INTENT. THEY  
5 REQUIRE A CRIMINAL INTENT. YOU ACTUALLY HAVE TO -- AND THIS IS  
6 RIGHT IN THE INSTRUCTIONS -- ACT WITH KNOWLEDGE AND INTENT.  
7 THERE'S ALL THESE DIFFERENT STANDARDS THAT THE COURT HAS  
8 ELUCIDATED IN THE INSTRUCTIONS.

9 AND IF DR. GANESH HAS THOSE BAD STATES OF MIND, THEN SHE'S  
10 GUILTY OF THE CHARGED CRIMES. THAT'S JUST -- YOU KNOW, THAT'S  
11 HOW IT IS.

12 IF, ON THE OTHER HAND, THE MENTAL ISSUES THAT SHE SUFFERS  
13 FROM STOP HER FROM FORMING THOSE MINDS, OR HAVING THOSE MINDS  
14 OF EVIL, SO TO SPEAK, THEN SHE'S NOT GUILTY.

15 FOR EXAMPLE, INSTRUCTION 5.5 TALKS ABOUT WILLFULLY,  
16 BECAUSE WHAT JUDGE KOH READ TO YOU IS THE GOVERNMENT MUST PROVE  
17 THAT DR. GANESH, THE DEFENDANT, ACTED WILLFULLY IN COMMITTING  
18 HEALTH CARE FRAUD AND MAKING FALSE STATEMENTS.

19 NOW, THE INSTRUCTION -- AGAIN, THIS IS 5.5 -- DEFINES  
20 WILLFULLY, AND IT'S VERY INTERESTING. AN ACT IS DONE WILLFULLY  
21 IF DR. GANESH ACTED WITH BAD PURPOSE AND WITH KNOWLEDGE THAT  
22 THE CONDUCT WAS UNLAWFUL.

23 SO SHE ACTUALLY HAS TO HAVE A BAD PURPOSE. SO THAT'S  
24 WHERE HER IMPAIRMENTS REALLY COME INTO PLAY.

25 AND THEN THERE'S A RELATED INSTRUCTION DEFINING THE WORD

1 "KNOWINGLY." AND, AGAIN, IT'S KNOWING IF THE DEFENDANT IS  
2 PERSONALLY AWARE OF THE ACT AND DOES NOT ACT THROUGH IGNORANCE  
3 OR MISTAKE OR ACCIDENT.

4 SO YOU REALLY ARE TAKING HER STATE OF MIND AND DECIDING  
5 WHERE IT FITS ON THE SPECTRUM, AND THAT'S A REALLY DIFFICULT  
6 ROLE FOR YOU.

7 BUT THE GOOD THING FOR ME, FROM AN ADVOCATE'S POINT OF  
8 VIEW, IS I DON'T HAVE TO DO AS GOOD A JOB AS MR. DELAHUNTY  
9 DOES, BECAUSE ON THOSE ISSUES, IF YOU HAVE A REASONABLE  
10 DOUBT -- NOT JUST ANY DOUBT, OBVIOUSLY, NOT SYMPATHY FOR  
11 DR. GANESH, NOT PITY -- BUT IF YOU REALLY HAVE A REASONABLE  
12 DOUBT WHETHER SHE HAD THOSE CULPABLE, CRIMINAL, WRONG,  
13 DELIBERATE WRONG MENTAL STATES, THAT'S A NOT GUILTY. BECAUSE  
14 ON THOSE ISSUES, I'VE GOT NO BURDEN OF PROOF. OKAY? THEY HAVE  
15 THE FULL BURDEN OF PROOF.

16 THE INSANITY DEFENSE ONLY COMES IN -- AND IT'S HARD FOR ME  
17 TO CONCEIVE OF NECESSARILY HOW THE DYNAMIC MIGHT OCCUR -- BUT  
18 LET'S SAY SOMEBODY SAYS TO HIMSELF, "OKAY, I THINK SHE'S GUILTY  
19 OF THE CRIMES, SHE KNEW WHAT SHE WAS DOING WAS AGAINST THE LAW,  
20 SHE PURPOSELY DECIDED TO BREAK THE LAW, BUT NOT ONLY DID SHE  
21 NOT KNOW IT WAS WRONG, BUT DUE TO HER MENTAL ILLNESS, SHE  
22 THOUGHT IT'S NOT WRONG BECAUSE I DID THE WORK, I SHOULD GET  
23 PAID, SO IF I HAVE TO LIE, CHEAT, AND STEAL TO GET PAID SO I  
24 CAN KEEP TREATING PATIENTS, THAT'S NOT WRONG."

25 NOW, SOME PEOPLE MIGHT SAY, THAT'S JUST AN EXCUSE. ANY

1 CROOK CAN COME UP WITH THAT EXCUSE.

2 BUT IF YOU THINK THAT SHE'S GUILTY, BUT THAT, QUOTE,  
3 "EXCUSE" IS NOT REALLY AN EXCUSE, IT'S REALLY HOW SHE SEES THE  
4 WORLD BECAUSE SHE IS UNDENIABLY MENTAL ILL OR PHYSICALLY  
5 IMPAIRED -- BECAUSE THE INSTRUCTION GIVES YOU THE ALTERNATIVE  
6 OF WHY SHE'S IMPAIRED -- THEN YOU CAN SAY SHE'S GUILTY, BUT NOT  
7 GUILTY BY REASON OF INSANITY. GUILTY OF THE CRIME.

8 SO EACH VERDICT FORM FOR DR. GANESH IS DIFFERENT FROM  
9 DR. BELCHER BECAUSE IT SAYS GUILTY, NOT GUILTY, OR SOMETHING, I  
10 FORGET, OTHERWISE -- GUILTY, BUT NOT GUILTY BECAUSE SHE WAS  
11 INSANE. THAT'S NOT THE EXACT WORDING. SO THAT'S WHERE YOU'RE  
12 GOING WITH THAT.

13 SO THAT'S -- WITH THAT, LET ME TALK ABOUT WHAT  
14 DR. LEVINSON DID AND SAID.

15 AND AFTER I DO THE DOCTORS, I'M GOING TO GO THROUGH SOME  
16 OF THE DEFECTS IN THEIR EVIDENCE IN TERMS OF THE COUNTS, NOT TO  
17 TRY TO TAKE AWAY FROM THE FACT THAT THE BILLINGS WERE TOTALLY  
18 OFF THE WALL, BUT JUST TO REMIND SOME PEOPLE THAT THEY DIDN'T  
19 DO SUCH A THOROUGH JOB ON THEIR PART.

20 DR. LEVINSON IS -- I DON'T KNOW HOW HE STRUCK YOU, BUT I  
21 THINK THAT HE'S A TRUE BELIEVER. HE REALLY BELIEVES IN WHAT HE  
22 DOES. HE BELIEVES IN MEDICINE. HE BELIEVES IN PSYCHIATRY.  
23 AND HE DOESN'T TAKE BOLONEY FROM ANYBODY. AND IF HE THINKS A  
24 QUESTION HAS, LIKE, A TRICK TO IT, HE'S GOING TO CALL IT OUT.  
25 AND HE EVEN -- YOU KNOW, HE DOESN'T -- HE DOESN'T CARE ABOUT

1 ANYTHING EXCEPT COMMUNICATING TO YOU WHAT HE REALLY BELIEVES.

2 NOW, YOU CAN AGREE WITH HIM OR DISAGREE WITH HIM, BUT  
3 HERE'S A GUY WHO'S SO UNCOMFORTABLE WITH THE COURT SYSTEM THAT  
4 EVEN THOUGH WE ALL KNOW THAT DR. BELCHER'S SON SAW HIM, AND HE  
5 KNOWS WE KNOW THAT, HE WOULDN'T SAY THAT THE PERSON HE SAW WAS  
6 DR. BELCHER'S SON. I MEAN, HE'S LIKE A PURE DOCTOR. OKAY?  
7 HE'S NOT A HIRED GUN, EVER. I THINK HE HAD THAT ONE CASE WHERE  
8 HE WAS CALLED AS A WITNESS IN 30 YEARS.

9 AND IN THIS CASE HE WOULDN'T LET US PAY HIM FOR ANYTHING,  
10 SO THE ONLY REASON HE'S HERE IS TO HELP HIS PATIENT.

11 NOW, THAT WAS -- THAT WAS ARGUED TO BE BIAS BY  
12 MR. DELAHUNTY. BUT COME ON. BIAS TO WANT TO HELP YOUR PATIENT  
13 MEDICALLY, TO LET JURORS KNOW THAT THIS IS A COMPLEX CASE AND  
14 THAT SHE'S ILL AND THAT SHE'S SUFFERING FROM REAL DISABILITIES?  
15 THAT'S BIAS?

16 THAT'S LIKE BEING BIASED -- THAT'S LIKE SAYING SUPERMAN IS  
17 BIASED FOR TRUTH AND JUSTICE AND THE AMERICAN WAY.

18 YEAH, THERE IS A CERTAIN BIAS THAT IS COMPLETELY  
19 LEGITIMATE. IT IS THE BIAS FOR TRUTH. AND THAT IS HIS ONLY  
20 BIAS, NOT GETTING PAID, HE DOESN'T WANT TO BE HERE, HAS NO  
21 INTENTION OF EVER BEING IN A COURTROOM AGAIN AS FAR AS I COULD  
22 TELL.

23 AND WHAT IS HE TRYING TO MAKE -- IT DOESN'T MATTER WHAT  
24 MR. DELAHUNTY SAYS OR WHAT THE RULES ARE IN THIS COURTROOM.  
25 HE'S GOING TO TELL YOU WHAT'S GOING ON.

1           AND WHAT DOES HE TELL YOU? HE TELLS YOU THAT HE HAS A  
2 CLEAR DIAGNOSIS OF ANXIETY DISORDER. OKAY. ANXIETY DISORDER,  
3 YOU KNOW, MANY PEOPLE CAN HAVE ANXIETY DISORDER AND NOT BE, YOU  
4 KNOW, SO IMPAIRED THAT THEY CAN'T, YOU KNOW, BE GUILTY OF A  
5 CRIME. I GET THAT.

6           THEN HE IS DIAGNOSING HYPOMANIA AND DEPRESSION. AGAIN,  
7 THESE ARE THINGS -- WE ALL KNOW DEPRESSED PEOPLE. WE ALL KNOW  
8 PEOPLE WE SUSPECT ARE MANIC OR HAVE HYPOMANIA OR ALL OF THESE  
9 AND IT'S NOT AN EXCUSE FOR CRIMINAL CONDUCT.

10           BUT HE'S NOT TRYING TO MAKE AN EXCUSE FOR HER. HE'S  
11 TRYING TO SAY, TAKE THAT, ALONG WITH HER REAL MEANINGFUL  
12 COGNITIVE DEFECTS -- SHE IS A CAR THAT'S GOT SIX CYLINDERS AND  
13 ONLY FOUR OF THEM ARE RUNNING IS BASICALLY WHAT HE'S SAYING.  
14 PLUS THE OIL NEEDS TO BE CHANGED AND IT'S LOW ON OIL AND THE  
15 BRAKES ARE BAD. YOU KNOW, WHICH -- THAT'S WHAT HE'S TELLING  
16 YOU.

17           AND HE'S THEN SAYING, IF THE CAR GOES OFF THE ROAD, IS THE  
18 FAULT OF THE DRIVER OR NOT? HE'S REALLY TELLING YOU THAT SHE'S  
19 BROKEN IN CERTAIN WAYS.

20           AND HE'S ALSO TELLING YOU THAT SHE'S STRONG IN CERTAIN  
21 WAYS, THAT HERE IS SOMEBODY WITH ALL OF THESE DEFECTS WHO HAD A  
22 DREAM.

23           AND I THINK WE KNOW THAT INDIA, PARTICULARLY WHEN SHE WAS  
24 THERE, IS NOT A COUNTRY WHERE IT'S SO EASY FOR WOMEN TO DREAM  
25 THE SAME AS MEN, AND SHE DID AND HER FAMILY SUPPORTED HER AND



1 SHE DID NOT QUALIFY, AS WE LEARNED, FOR MEDICAL SCHOOL BASED  
2 UPON HER GRADES.

3 BUT IF SHE PAID A BRIBE, SHE COULD GET IN. EXCEPT THAT  
4 HER FAMILY DIDN'T HAVE THE MONEY TO PAY A BRIBE. SO HER  
5 BROTHER JUST WENT BACK AGAIN AND AGAIN ASKING FOR MERCY,  
6 UNDERSTANDING, WHATEVER, AND SHE FINALLY GOT IN.

7 BUT SHE DIDN'T WASTE HER TIME. EVEN THOUGH SHE'S GOT  
8 MAJOR DEFICITS, SHE OVERCAME THOSE DEFICITS AND STUDIED VERY,  
9 VERY HARD AND GOT A MEDICAL DEGREE.

10 NOW, WHAT IS WRONG WITH THAT? THAT DOESN'T MEAN SHE  
11 DIDN'T HAVE THE DEFICITS. WE'RE SUPPOSED TO BE ROOTING FOR  
12 PEOPLE WHO HAVE SOME IMPAIRMENTS TO OVERCOME THEM AND STILL DO  
13 WELL, AND SHE DID.

14 AND IT'S NOT LIKE SHE THEN USED HER ACCOMPLISHMENTS IN  
15 SOME SELFISH WAY. SHE TREATS PATIENTS. YOU SAW THE PATIENTS  
16 THEY BROUGHT IN. THESE ARE PATIENTS WITH REALLY SERIOUS  
17 PHYSICAL ISSUES, AND IT SEEMED LIKE EVERY PATIENT WHO CAME IN  
18 HAD HEART OR KNEES OR HIPS, YOU KNOW, OR THYROID ISSUES. THEY  
19 HAD REAL ISSUES.

20 AND IS SHE GOING OVER THE TOP? YEAH, OF COURSE. SHE'S  
21 TREATING THEM THE SAME WAY SHE DOES EVERYTHING. EVERYTHING SHE  
22 DOES IS A MANIFESTATION -- YOU KNOW WHERE SHE SHOULD BE? SHE  
23 SHOULD BE AT KAISER. IF SHE WAS AT KAISER WHERE SHE DIDN'T  
24 HAVE TO BILL, WHERE SHE SAW THE PATIENTS, DIDN'T WORRY ABOUT  
25 ANYTHING EXCEPT MEETING THE KAISER CRITERIA, AND IF SHE DIDN'T

1 MEET THEM, THEY WOULD HAVE SOMEBODY FORCE HER TO, SHE'D SURVIVE  
2 AT KAISER.

3 BUT SHE TOOK OVER THIS PRACTICE THAT WAS A HUGE PRACTICE  
4 THAT EVEN SOMEBODY WITH A BUSINESS BACKGROUND MIGHT HAVE  
5 TROUBLE TAKING OVER, AND INSTEAD, SHE JUST REACHED OUT TO  
6 DR. BELCHER AND SAID, "HELP ME."

7 AND HERE'S A GUY WHO DOESN'T REALLY KNOW MUCH ABOUT  
8 BUSINESS EITHER, BUT HE'S SMART AND HE DOESN'T HAVE THE SAME  
9 IMPAIRMENTS, SO HE TRIED TO HELP HER, AND THERE'S NOTHING WRONG  
10 WITH THAT.

11 BUT LET'S LOOK AT DR. LEVINSON A LITTLE BIT. HE SAW  
12 DR. GANESH 23 TIMES. ALL RIGHT? THAT'S A LOT. AND HE SAID HE  
13 SPENT ABOUT AN HOUR DURING THOSE SESSIONS, WHICH IS A LOT FOR,  
14 FOR A PSYCHIATRIST TO SEE A PATIENT. SO THAT'S GOOD. I MEAN,  
15 HE REALLY GOT TO KNOW HER.

16 NOW, HE REFERRED HER FOR THYROID TESTS -- AND I'M READING,  
17 SO I APOLOGIZE FOR NOT LOOKING AT YOU, BUT I WANT TO GET IT  
18 RIGHT -- FOR THYROID TESTS. HE WANTED TO RULE OUT EPILEPSY, SO  
19 HE DID AN EEG TO CHECK HER BRAIN WAVES.

20 SO THIS IS ALL BEFORE THIS CRIMINAL CASE CAME TO HIS  
21 ATTENTION, AND HE'S ALREADY LOOKING FOR CAUSES OF HER DISORDERS  
22 THAT ARE PHYSICAL, NOT JUST EMOTIONAL.

23 AND, YOU KNOW, THERE'S THE PREJUDICE THAT CAN HAPPEN --  
24 I'M NOT SEEING IT IN YOUR EYES -- WHEN I'M -- YOU KNOW, THAT  
25 SOME PEOPLE SAY, "OH, IF YOU HAVE PSYCHOLOGICAL PROBLEMS, BUCK

1 UP, GET TOUGH AND GET OVER THEM." AND WE ALL KNOW -- I THINK  
2 YOU ALL KNOW THAT THAT DOESN'T WORK SO EASILY. I WISH IT DID.

3 BUT HE'S ALSO LOOKING FOR PHYSIOLOGICAL PROBLEMS RIGHT AT  
4 THE BEGINNING BECAUSE HE'S EXPERIENCED, RIGHT? HE'S BEEN  
5 AROUND 30 YEARS. HE'S SMART. I MEAN, JUST BEING AT STANFORD  
6 DOESN'T NECESSARILY MEAN YOU'RE SMART, BUT THE 150 PAPERS THAT  
7 HE WROTE THAT OTHER PEOPLE REVIEWED SHOWS THAT HE'S A PRETTY  
8 GOOD BRAIN, AND I THINK YOU SAW HIM UP THERE. I THINK HE'S  
9 PRETTY SMART.

10 SO HE'S LOOKING FOR THOSE CAUSES, AND THEN HE MAKES THE  
11 REFERRAL TO DR. LEVINSON.

12 NOW, ONE OF THE THINGS HE SEES IS THAT TONGUE THRUST, YOU  
13 KNOW, THE TONGUE FLICKING IN AND OUT, WHICH EVERYONE SAW. SO  
14 THIS IS WHERE THE COMMONALITIES COME. DR. GLEZER SAW IT AND  
15 SHE SAID IT MAY HAVE, YOU KNOW, SOME PHYSIOLOGICAL BRAIN ISSUE,  
16 AND SO DID DR. LEVINSON.

17 DR. GLEZER REALLY CAME UP WITH THE SAME, SAME ANXIETY  
18 DISORDER AS DR. LEVINSON, AND SHE DIDN'T REALLY DISAGREE WITH  
19 HIS FINDING OF BIPOLAR II, BIPOLAR WITH HYPOMANIA, NOT THE KIND  
20 OF MANIC THING WHERE YOU'RE PSYCHOTIC, BUT JUST WHERE YOU'RE  
21 MANIC.

22 HE FOUND THAT, AND SHE BASICALLY SAID, "I DIDN'T HAVE  
23 ENOUGH TIME OR INFORMATION OR BACKGROUND TO DECIDE." OKAY. HE  
24 SPENT 23 -- HE SAW HER FOR 23 HOURS. SHE SAW DR. GANESH ONCE,  
25 YOU KNOW, FOR FIVE, SIX HOURS, WHICH IS GREAT, BUT SHE DIDN'T

1 HAVE THE HISTORY.

2 SO -- AND SHE RELIED ON AN OLD BOOK WHICH LETS YOU KIND OF  
3 LEAVE THE DIAGNOSIS AMORPHOUS, WHICH IS FINE. AND SHE WAS  
4 FULLY DISCLOSING THAT.

5 NOW THEY LIKE TO PUSH YOU A LITTLE MORE AND YOU HAVE TO  
6 ACTUALLY HAVE A DIAGNOSIS. WHETHER THAT'S FAIR TO THE  
7 PSYCHOLOGIST OR PSYCHIATRIST, I DON'T KNOW. BUT I DON'T MIND  
8 AT ALL THAT SHE RELIED ON THE OLD STANDARD BECAUSE IT WAS HER  
9 WAY OF SAYING, "LOOK, I JUST DIDN'T HAVE ENOUGH TIME TO  
10 DECIDE."

11 BUT SHE NEVER TOLD YOU THAT DR. LEVINSON WAS WRONG ABOUT  
12 ANYTHING.

13 WHAT HE DESCRIBED -- WHAT DR. LEVINSON SAID ABOUT  
14 HYPOMANIA IS THAT THESE ARE EPISODES OF A VERY ELEVATED MOOD.  
15 IT'S -- YOU CAN FEEL GRANDIOSE, YOU CAN BE TALKING QUICKLY AND  
16 HAVE RACING THOUGHTS. AND HE ACTUALLY OBSERVED HER IN THAT  
17 STATE AND THAT CONFIRMED THE DIAGNOSIS THAT HE ALREADY HAD.

18 WITH BIPOLAR II DISORDER, YOU HAVE NOT ONLY THAT MANIA,  
19 BUT YOU ALSO HAVE A DEPRESSIVE ELEMENT TO IT AS WELL, AND  
20 THAT'S WHY HE TOOK -- CHOSE THE DRUG HE DID, BECAUSE HE DID NOT  
21 WANT TO INCREASE THE CYCLING OF IT, WHICH I GUESS SOME OF THE  
22 ANTIDEPRESSANTS CAN DO.

23 SO WHEN HE DID -- ACTUALLY, WHEN HE DID ACTUALLY SEE THE  
24 HYPOMANIA, HE WENT FROM THE SORT OF ANTI-EPILEPSY DRUG THAT'S  
25 GOOD FOR CERTAIN THINGS AND PUT HER ON A PRETTY STRONG DRUG,

1 LITHIUM, AND THEN YOU GET INTO ALL THE SIDE EFFECTS OF LITHIUM,  
2 BUT I THINK WE LEARNED WITH DR. GLEZER, WE LEARNED THAT YOU  
3 DON'T PUT SOMEBODY ON LITHIUM UNLESS THEY'VE GOT A SERIOUS  
4 ILLNESS, SO HE DID.

5 THEN HE ADJUSTED HER THYROID BECAUSE HER THYROID WAS OFF,  
6 AND IF IT GETS LOW, YOU CAN BE DEPRESSED. IF YOUR THYROID IS  
7 TOO HIGH, YOU CAN BE HYPERACTIVE. SO HE ADJUSTED HER THYROID.

8 AND -- BUT HERE'S WHAT HE SAID ABOUT HER BEHAVIOR. NOW,  
9 THINK ABOUT WHAT YOU SAW ON THE WITNESS STAND -- AND THAT JUST  
10 CAME TO ME EARLIER THIS MORNING, COMPARING HOW SHE WAS ON THE  
11 WITNESS STAND, YOU KNOW, HOW THAT'S THE BEST SHE CAN DO TO  
12 DEFEND HERSELF. AT LUNCH, I WAS GOING, OH, THAT'S KIND OF  
13 GOOD. I DON'T KNOW WHERE THAT CAME OUT OF.

14 BUT THINK ABOUT THAT. THINK ABOUT WHAT YOU SAW ON THE  
15 WITNESS STAND AND THINK ABOUT WHAT DR. LEVINSON SAYS ABOUT HIS  
16 OBSERVATIONS OF HER AND -- WHICH ARE CAUSED BY HER DEFICITS.

17 SHE HAS SOME DIFFICULTY IN EXPRESSING HERSELF IN A VERY  
18 LINEAR FASHION. SHE HAS DIFFICULTY STAYING ON POINT. IT'S  
19 DIFFICULT TO GET HER TO EXPLAIN SOMETHING IN A CLEAR, LOGICAL  
20 WAY. SHE HAS CERTAIN WAYS OF LOOKING AT THINGS THAT SHE CAN'T  
21 GIVE UP. SHE STICKS IN THAT FRAMEWORK AND TALKS ON AND ON  
22 ABOUT IT.

23 I MEAN, YOU CAN EVEN HAVE -- YOU KNOW, LOOK AT YOUR NOTES.  
24 I THINK -- IF YOU EVEN COULD TAKE NOTES DURING WHAT SHE WAS  
25 TESTIFYING ABOUT. I MEAN, TRYING TO GET HER TO FOCUS ON POINTS

1 THAT WERE USEFUL TO THIS CASE, OR GIVE YOU EVEN A CLEAR HISTORY  
2 ABOUT WHAT HER PRACTICE WAS, YOU COULDN'T. IT WAS GOING ALL  
3 OVER THE PLACE. IT WOULD CHANGE. I MEAN, I -- RIGHT IN FRONT  
4 OF OUR EYES, SHE WOULD GIVE TWO OR THREE DIFFERENT, YOU KNOW,  
5 EXPLANATIONS OR TIMEFRAMES.

6 AND SHE'S BEEN IN COURT FOR DAYS WATCHING OTHER WITNESSES.  
7 SHE KNOWS WHAT MR. DELAHUNTY AND MR. NEDROW WILL DO TO YOU IF  
8 YOU'RE IN AN INCONSISTENT STATE AND SHE COULDN'T DO IT.

9 AND ONE MORE -- WHAT DR. LEVINSON SAID IS THAT WHAT --  
10 WHAT YOU SAW THERE, BASICALLY, HE SAID WHAT YOU SAW THERE AND  
11 WHAT YOU'VE SEEN IN THE EVIDENCE ABOUT THE BILLINGS AND THE WAY  
12 SHE TREATS PEOPLE IS NOT JUST FROM THE BIPOLAR II AND IT'S NOT  
13 JUST FROM THE ANXIETY DISORDER. THERE HAS TO BE MORE. IT'S  
14 ACTUALLY A BRAIN WIRING ISSUE.

15 AND WHAT HE SAYS IS THAT A SET OF DISRUPTIONS -- THERE  
16 IS -- IT'S A SET OF DISRUPTIONS THAT HE WAS SEEING. ACTUALLY,  
17 LET ME -- HE BASICALLY SAID THAT THE SYMPTOMS DON'T ALL FIT IN  
18 THE DSM BOOK. HE SAID THERE'S A SET OF DISRUPTIONS THAT  
19 SUGGEST A NEUROLOGICAL COGNITIVE PROBLEM BECAUSE THE THINGS  
20 THAT YOU SAW ON THE STAND AND THE THINGS THAT YOU'VE SEEN IN  
21 EVIDENCE IN THIS CASE ARE OUT OF PROPORTION TO WHAT SOMEBODY  
22 WOULD BE DOING IF THEY HAD ANXIETY DISORDER AND THE BIPOLAR II.  
23 THERE'S MORE GOING ON.

24 AND I THINK THE WAY I TRY TO DEAL WITH THAT CONCEPT IS  
25 THIS: WHEN I WAS A KID, SOMEBODY SAID -- A TEACHER SAID, "YOU

1 SEE THE COLOR GREEN. "

2 I GO, "YEAH. "

3 "AND I SEE THE COLOR GREEN. "

4 I SAY, "YEAH. "

5 THEN THE TEACHER SAID, "BUT THOSE ARE JUST LIGHT WAVES OF  
6 A CERTAIN FREQUENCY. "

7 I GO, "OKAY. "

8 "SO WHEN THEY HIT YOUR EYE, YOU SEE GREEN IN A CERTAIN  
9 WAY. BUT WHEN I SEE THE GREEN, IT MIGHT BE RED. THE WAY YOU  
10 SEE GREEN AND RED, I MAY REVERSE THEM IN MY EYE. YOU DON'T  
11 KNOW WHAT'S IN MY BRAIN. YOU CAN DISTINGUISH BETWEEN THE TWO  
12 OF THEM, BUT YOU SEE THEM DIFFERENTLY. "

13 AND I NEVER REALLY QUITE UNDERSTOOD WHAT SHE WAS TALKING  
14 ABOUT, BUT I THINK WHAT SHE WAS TRYING TO SAY IS THAT WE LIVE  
15 IN OUR WORLD AND ASSUME THAT EVERYBODY IS PRETTY MUCH LIKE US,  
16 THAT WHEN YOU HEAR THIS NOISE, WE ALL HEARD IT THE SAME. AND  
17 YET, IF I HAVE A KID WHO'S VERY SENSITIVE TO SOUND AND I DO  
18 THAT NOISE, SHE MAY COVER HER EARS.

19 AND PEOPLE ARE WIRED DIFFERENTLY. AND WHAT YOU'RE HEARING  
20 FROM DR. GANESH IS SHE'S NOT LIMPING, SHE'S NOT SLURRING HER  
21 SPEECH, BUT SHE'S THRUSTING HER TONGUE, SHE'S GOING ON IN  
22 CIRCLES, AND WHEN PRESENTED WITH A SITUATION IN AN OFFICE WHERE  
23 THE BILLING IS OVERWHELMING AND ALIEN TO HER, SHE PICKS A  
24 CERTAIN PATTERN THAT SHE THINKS IS RIGHT, THAT SHE THINKS  
25 DR. DEWEES WAS DOING, AND DOES IT OVER AND OVER.

1           AND WHEN THE INSURANCE COMPANIES DON'T PAY, THEY KICK IT  
2 BACK, THEY ASK FOR MORE INFORMATION, SHE JUST CAN'T ADJUST AND  
3 CHANGE. SHE CAN'T SWITCH THE -- THE CARDS ARE ALL -- SHE  
4 THINKS THAT EVERYTHING HAS TO GO IN THIS CARD PILE.

5           WHEN THE CARD PILE CHANGES, SHE CAN'T CHANGE. WHEN THEY  
6 SAY, "NO, YOU HAVE TO PICK AMONG FIVE CODES AND APPLY THESE  
7 STANDARDS," SHE CAN'T DO IT BECAUSE IT'S NOT WHAT SHE'S BEEN  
8 TRAINED TO DO.

9           SHE CAN STUDY RULES THAT ARE CLEAR. IF A PATIENT COMES IN  
10 WITH A RUNNY NOSE, YOU -- THE FIRST THING YOU WANT TO SAY IS,  
11 "HOW MANY DAYS HAVE YOU HAD IT," LISTEN TO SEE IF IT'S IN THE  
12 PATIENT'S CHEST. IF IT IS, CONSIDER BACTERIAL CAUSES AND  
13 PNEUMONIA. IF IT'S NOT IN THE CHEST, CONSIDER -- YOU KNOW,  
14 THERE'S A -- IF IT'S A, IT'S B. IF IT'S B, IT'S EITHER A, B,  
15 OR C. SHE CAN FOLLOW THOSE CHARTS.

16           BUT IF YOU TAKE SOMETHING AS AMORPHOUS AS, YOU KNOW, "I'M  
17 DOING THE DIAGNOSIS OF THE BLOWING NOSE, THE PATIENT HAS BEEN  
18 HERE TWICE BEFORE, I WANT TO KNOW WHERE THE PATIENT'S BEEN, I  
19 WANT TO KNOW IF THE PATIENT'S HAD ANY CHEST PAIN, DID I EVER  
20 SEE HIM BEFORE, I BETTER CHECK HIS THYROID BECAUSE HE HAD A LOW  
21 THYROID ONCE."

22           NEXT THING YOU KNOW, WHAT IS THAT? BECAUSE JUST THE  
23 BLOWING NOSE MIGHT BE A LOWER CODE AND SHE'S JUST BASICALLY  
24 SAYING, "I CAN'T DEAL. I CAN'T FIGURE OUT HOW THAT APPLIES."  
25 SO SHE SAYS, "I'M JUST GOING TO DO EVERYTHING, BLOOD DRAWS, I'M



1 GOING TO DO, YOU KNOW, EKG'S AND THE HEART TESTS, I DON'T CARE  
2 WHAT I'M DOING, I'M GOING TO DO EVERYTHING, EVERY PATIENT IS  
3 GOING TO GET MY FULL ATTENTION AND JUST BILL THAT CODE. CHANGE  
4 ALL THE CODES. STOP TRYING TO BILL DIFFERENT THINGS BECAUSE IT  
5 NEVER WORKS."

6 AND IF YOU LOOK AT THE BILLINGS, IT'S NOT LIKE THE  
7 INSURANCE COMPANIES WERE, LIKE, REALLY DOING IT RIGHT SO THAT  
8 IF SHE WOULD HAVE ONLY LISTENED TO THEM, IT WOULD BE RIGHT.

9 EVERY TIME -- AM I WRONG ABOUT THIS -- EVERY SINGLE ONE OF  
10 THEM GOT UP HERE AND SAID THE CPT CODE REQUIRES 40 MINUTES. I  
11 THINK ONE PERSON SAID, WELL, IT -- "WE DON'T THINK YOU COULD DO  
12 IT IN LESS THAN 40 MINUTES, SO IT HAS TO BE 40 MINUTES."

13 AND THEN I WOULD READ THAT BOOK AND IT NEVER SAYS IT HAS  
14 TO BE 40 MINUTES. IT HAS TO BE THOSE CRITERIA, EXTENSIVE  
15 HISTORY AND/OR THIS, AND/OR COMPLEX PROBLEM SOLVING, OR 40  
16 MINUTES. OR IT COULD BE BOTH, BUT IT DOESN'T REQUIRE IT. SO  
17 THEY CHANGE THE RULES EVEN THOUGH THEY CLAIM THEY DON'T.

18 THAT IS -- THERE'S AN EXPRESSION FROM SOME MOVIE I THINK  
19 CALLED "GASLIGHTING" WHERE YOU BASICALLY TAKE SOMEBODY'S  
20 REALITY AND YOU ARGUE IT AWAY. IT'S NOT REAL. IT'S NOT REAL.  
21 YOU KNOW, IT'S LIKE THE HARVEY WEINSTEIN THING WHERE YOU'RE  
22 GOING, "IT'S NOT REAL. I DIDN'T DO THAT TO YOU. YOU WERE  
23 COMING ON TO ME," THAT KIND OF STUFF. AND THEN YOU JUSTIFY,  
24 SOMEBODY LIKE THAT JUSTIFIES THEIR TERRIBLE BEHAVIOR. THAT'S  
25 GASLIGHTING.

1           AND IN A WAY, THAT'S WHAT THESE INSURANCE COMPANIES WERE  
2 DOING BECAUSE THEY'RE SAYING, "YOU'RE NOT FOLLOWING THE BILLING  
3 CODES. YOU'RE NOT DOING IT RIGHT BECAUSE YOU HAVE TO FOLLOW  
4 THE AMERICAN MEDICAL ASSOCIATION'S BILLING CODE."

5           BUT THEN, WHEN I QUESTIONED THEM ON THE WITNESS STAND,  
6 THEY DON'T FOLLOW IT AND THEY REJECT THE BILLS OR SEND THEM  
7 BACK BECAUSE YOU'RE SUPPOSED TO PROVE YOU SPENT 40 MINUTES.

8           HOW CAN YOU BE SAYING YOU'RE FOLLOWING THE RULES AND  
9 DR. GANESH IS NOT FOLLOWING THE RULES WHEN YOU'RE NOT FOLLOWING  
10 THE RULES?

11           SO IT'S NOT LIKE THEY'RE NOT -- THEY'RE NOT PURE. THEY'VE  
12 GOT A LOT OF FAULT, TOO.

13           AND, YOU KNOW, YOU HEARD ABOUT ALL THEM TRYING TO HELP HER  
14 OUT, YOU KNOW, A FEW LETTERS HERE AND THERE SENT TO HER,  
15 CORRECTION LETTERS.

16           I DIDN'T SEE A SINGLE PERSON ON THAT STAND WHO SAID, "I  
17 TALKED TO HER. I TRIED TO HELP HER OUT." I DIDN'T SEE  
18 ANYTHING EXTENSIVELY DEALING WITH TRYING TO MAKE IT WORK FOR  
19 HER. I JUST SAW PEOPLE GOING UP THERE SAYING "MY SPREADSHEETS  
20 ARE GOOD AND SHE DIDN'T BILL THE RIGHT CODES BECAUSE WE HAVE  
21 OUR OWN SECRET WAY OF BILLING THE CODES, BUT WE DIDN'T TELL  
22 ANYBODY, AND WE'RE NOT REALLY CHANGING THE CODES," EVEN THOUGH  
23 THEY ARE, AND I HAD TO KEEP CATCHING THEM AND THEY FOUGHT ME ON  
24 IT, BUT I CAUGHT THEM EVERY TIME BECAUSE THEY HAD NO GUILT  
25 ABOUT IT.

1 SO ADD THAT TO THEIR IMPAIRMENTS, THE FACT THAT THEY'RE  
2 PLAYING GAMES, UNIMAGINABLE GAMES AS YOU SAW THEM. HOW IS SHE  
3 GOING TO ADJUST? SHE CAN'T.

4 YOU WANT TO TALK ABOUT THE CARD SORT THING, WHAT IS IT,  
5 THE WISCONSIN CARD SORT? THEY'RE CHANGING THE RULES. THEY SAY  
6 TO FOLLOW THE AMA BOOK AND THEN THEY CHANGE THE RULES AND  
7 THEY'RE NOT FOLLOWING IT. AND SHE ALREADY CAN'T FOLLOW THE AMA  
8 BOOK. SO IT'S MESSED UP WHAT THEY DID.

9 ALL RIGHT. I'M JUST ABOUT DONE. I'M NOT EVEN GOING TO  
10 SHOW THE THINGS WRONG WITH THE BILLING. I'M NOT. YOU KNOW IT.  
11 YOU'LL SEE IT. SUNIL KAKKAR, SOMETIMES, YOU KNOW, EVEN HER  
12 STUFF, THE CHECKS WERE WRITTEN TO HER. SORRY, SUNIL SONI,  
13 THEY'RE WRITING CHECKS TO HER, NOT TO DR. GANESH.

14 THERE'S -- GOODNESS. MICHAEL KELLEY, MAYBE THERE'S A  
15 BILLING WHERE THERE'S NO SERVICE ON THAT DATE. YOU LOOK  
16 THROUGH HIS MEDICAL CHART. BUT THERE MIGHT BE A SERVICE TWO  
17 DAYS EARLIER WHICH SHE NEVER BILLED. SO SOMETIMES SHE'S  
18 BILLING THE WRONG DATES. HALF THE TIME THE DATES THAT SHE  
19 REALLY DID THE SERVICE, BECAUSE IT'S IN THOSE MEDICAL CHARTS,  
20 DON'T SHOW UP ON ANY BILLS.

21 SO THE BILLING IS SO MESSED UP IN THAT OFFICE THAT SHE'S  
22 NOT BILLING -- SHE'S BILLING FOR WHEN SHE DOESN'T DO THE WORK.  
23 WHEN SHE DOES DO THE WORK, SHE DOESN'T BILL. THE DATES AREN'T  
24 RIGHT, AND THE INSURANCE COMPANIES ARE HAVING THIS BIG BUFFET  
25 ON HER BECAUSE SHE'S TREATING PATIENTS LIKE MICHAEL KELLEY AND

1 EVERYBODY ELSE WITHOUT GETTING PAID, EVEN WHEN SHE KNOWS IT.

2 SO I SUBMIT TO YOU -- AND I'M DONE HERE -- THAT THIS IS A  
3 VERY SAD CASE, BUT THERE IS NO QUESTION THAT SHE HAD NO  
4 CRIMINAL INTENT. SHE JUST WANTED TO TREAT HER PATIENTS, GET  
5 PAID, AND SHE DID THE BEST SHE COULD. THIS DOESN'T EVEN COME  
6 CLOSE TO THE LEGAL DEFINITION OF A CRIME.

7 AND I JUST WANT TO REPEAT THAT PHRASE TO YOU ONE MORE  
8 TIME: TO DO THE SAME THING OVER AND OVER AND OVER AGAIN, AS  
9 SHE DID FOR TEN YEARS, AND EXPECT A DIFFERENT RESULT IS THE  
10 DEFINITION OF, THE COMMON DEFINITION OF INSANITY.

11 AND THERE'S NO CRIMINAL INTENT HERE. NONE AT ALL. IT'S  
12 JUST SAD.

13 THANK YOU ALL. THANK YOU ALL VERY MUCH.

14 THE COURT: OKAY. I THINK WE SHOULD TAKE A FIVE  
15 MINUTE BREAK NOW AND THEN COME BACK AND HEAR THE NEXT CLOSING  
16 ARGUMENT. OKAY?

17 DO NOT RESEARCH OR DISCUSS THE CASE. THANK YOU FOR YOUR  
18 PATIENCE AND YOUR SERVICE.

19 (JURY OUT AT 1:50 P.M.)

20 THE COURT: ALL RIGHT. LET'S TAKE OUR BREAK NOW AS  
21 WELL.

22 (RECESS FROM 1:50 P.M. UNTIL 1:55 P.M.)

23 THE COURT: ALL RIGHT. LET'S BRING THE JURY IN.

24 THE CLERK: OKAY.

25 MS. CHUNG: CAN WE HAVE ONE SECOND?

1 THE CLERK: DO YOU NEED A SECOND? IT'S NOT PUBLISHED  
2 TO THEM, SO --

3 THE COURT: WAIT, WAIT. IF WE'RE NOT READY ON THIS,  
4 LET'S TAKE A MOMENT TO FIGURE IT OUT.

5 MR. HICKEY: FOR WHATEVER REASON, WHEN I START THE  
6 SLIDE SHOW, IT -- I GET THIS BIZARRE DISPLAY ON THE MONITOR  
7 THAT I DON'T HAVE ON MY COMPUTER.

8 THE CLERK: IT'S JUST CONNECTING TO YOUR COMPUTER. I  
9 DON'T KNOW HOW IT --

10 (PAUSE IN PROCEEDINGS.)

11 THE COURT: WOULD EVERYONE PLEASE STAND? WOULD  
12 EVERYONE PLEASE STAND? THANK YOU.

13 (JURY IN AT 1:57 P.M.)

14 THE COURT: WELCOME BACK. PLEASE TAKE A SEAT.

15 ALL RIGHT. PLEASE PROCEED, MS. CHUNG.

16 **(MS. CHUNG GAVE HER CLOSING ARGUMENT ON BEHALF OF**  
17 **DEFENDANT BELCHER.)**

18 MS. CHUNG: GOOD AFTERNOON.

19 I DON'T KNOW HOW ELSE TO SAY THIS, EXCEPT DR. BELCHER JUST  
20 SHOULDN'T BE HERE. HE'S INNOCENT. IT'S A TRAGEDY THAT AN  
21 INNOCENT MAN IS ON TRIAL, BECAUSE EVEN FROM THE VERY BEGINNING  
22 OF THE GOVERNMENT'S INVESTIGATION, DR. GREGORY BELCHER ALWAYS  
23 GOT GROUPED WITH DR. GANESH. TIME AND TIME AGAIN, THE  
24 GOVERNMENT HAS TWISTED FACTS IN THIS CASE ASKING YOU TO BELIEVE  
25 THAT THOSE TWO DOCTORS CONSPIRED TO ROB THEIR PATIENTS AND THE

1 INSURANCE COMPANIES.

2 THEY WANT TO DISTRACT YOU FROM THE TRUTH BY INSINUATING  
3 THINGS LIKE THAT FIVE BEDROOM HOUSE IN SARATOGA IS SOME KIND OF  
4 PAYOUT OF THIS GRAND CRIMINAL CONSPIRACY.

5 BUT THE GOVERNMENT'S ALLEGATIONS DON'T STOP THERE. THEY  
6 DRAW A PICTURE OF THE MODERN DAY DOCTOR VERSION OF BONNIE AND  
7 CLYDE AND THEIR FANCY CARS, SHOPPING AT NEIMAN MARCUS,  
8 VACATIONING AT HIGH-END RESORTS.

9 BUT AS WE HAVE LEARNED THROUGHOUT THE COURSE OF THIS  
10 TRIAL, REALITY IS VERY DIFFERENT. HERE WE HAVE A BRILLIANT  
11 SURGEON WHO'S EVERYONE'S FIRST CALL FOR THE MOST COMPLICATED  
12 SURGERY -- COMPLICATED ORTHOPEDIC SURGERIES IN THE AREA. HE'S  
13 A DISTINGUISHED NAVAL OFFICER WITH 22 YEARS OF SERVICE HISTORY.

14 YET, HE'S MODEST ENOUGH TO RUN A FREE BOOT CAMP CLINIC IN  
15 HIS SPARE TIME.

16 A DOCTOR WHO PUTS HIS PATIENTS BEFORE ALL ELSE, EVEN HIS  
17 OWN TIME AND MONEY.

18 LEFT TO HIS OWN DEVICES, DR. BELCHER IS RESPECTED, LOVED,  
19 AND APPRECIATED BY ALL THOSE AROUND HIM. HE'S A MAN OF HIGH  
20 CHARACTER. IF YOU KNEW HIM, HE WOULD BE THE LAST PERSON YOU  
21 WOULD EVER IMAGINE THAT WOULD BE SITTING IN THIS COURTROOM.

22 BUT IN 2004, HE MET DR. VILASINI GANESH. HE FELL IN LOVE  
23 WITH THE QUIRKY, PASSIONATE, INTELLIGENT YOUNG DOCTOR AND HOPED  
24 TO RAISE A HAPPY FAMILY TOGETHER.

25 BUT IT DIDN'T TAKE LONG UNTIL HE FOUND HIMSELF EMBROILED

1 IN CONFLICT AFTER CONFLICT AS AN UNWILLING PARTICIPANT IN  
2 DR. GANESH'S DRAMA.

3 HARDLY AN EAGER CONSPIRATOR.

4 AS SOME GOVERNMENT WITNESSES PUT IT, HE WAS A PEACEKEEPER  
5 TO ALL OF THOSE WHO HAVE FACED DR. GANESH'S WRATH. NOT A  
6 CONSPIRATOR, A PEACEKEEPER. THIS IS WHAT THE GOVERNMENT'S  
7 WITNESSES TOLD YOU.

8 AND DR. BELCHER IS GOING TO HATE ME FOR SAYING THIS, BUT  
9 YOU HAVE TO BE WONDERING, WELL, WHY DID HE STAY? RIGHT? IF  
10 IT'S THAT INSANE AT HOME, WHY STAY?

11 DR. BELCHER HAS EXPERIENCED FIRST-HAND THE TRAUMA OF BEING  
12 ABANDONED BY HIS FATHER AT A VERY YOUNG AGE. AS YOU SAW WHEN  
13 HE TESTIFIED, HE IS STILL STRUGGLING WITH THAT PAIN.

14 HE HAS ALSO HAD TO WATCH HIS OWN SON, GREG JUNIOR, BE  
15 ABANDONED BY HIS MOM AND STRUGGLE WITH THAT FOR MOST OF HIS  
16 LIFE AS WELL.

17 SO FOR BETTER OR WORSE, HE COULDN'T LEAVE DR. GANESH, AND  
18 HE HASN'T LEFT HER. HE COULD NOT BEAR TO PUT HIS CHILDREN  
19 THROUGH SUCH TRAUMA ALL OVER AGAIN.

20 INSTEAD, HE LEARNED TO PICK AND CHOOSE HIS BATTLES WITH  
21 HER AND TO MAKE IT WORK WITH HER AND JUST KEPT HOPING THAT THE  
22 WOMAN HE FELL IN LOVE WITH WAY BACK WHEN WOULD SOMEHOW COME  
23 BACK.

24 NOW, THAT'S THE STORY OF WHY HE'S HERE TODAY AND HOW HE  
25 GOT HERE.

1           NOW, AT THE FIRST WEEK OF TRIAL, THE GOVERNMENT PROMISED  
2 YOU THEY WOULD PROVE THAT THESE TWO DOCTORS COMMITTED HEALTH  
3 CARE FRAUD TOGETHER.

4           RATHER THAN ACTUALLY PROVING UP THEIR CASE, THE GOVERNMENT  
5 ESSENTIALLY WANTS YOU TO JUST TAKE A SHORTCUT BY CONCLUDING  
6 THAT DR. BELCHER IS A CONSPIRATOR BECAUSE HIS LIFE IS  
7 INEXTRICABLY INTERTWINED WITH DR. GANESH IN SO MANY WAYS. THEY  
8 HAVE HAMMERED INTO US THAT THEY SHARE OFFICE SPACE, THEY LIVE  
9 TOGETHER, THEY HAVE CHILDREN TOGETHER, THEY SHARED STAFF, THEY  
10 REFER PATIENTS, HE'S A SIGNER ON HER BANK ACCOUNT, SHE'S A  
11 SIGNER ON HIS, AND HE'S HELPED HER WITH DATA ENTRY, THEY'VE  
12 SHARED EXPENSES. OF COURSE HE CONSPIRED WITH HER.

13           BUT DON'T TAKE THAT SHORTCUT. DON'T LET THE GOVERNMENT  
14 MISLEAD YOU, BECAUSE DR. BELCHER IS NOT A CONSPIRATOR AND THERE  
15 IS JUST NO CONSPIRACY HERE.

16           NOW, THE GOVERNMENT SHOWED YOU THIS SLIDE -- IS IT ON THE  
17 SCREEN?

18           THE CLERK: YES, COUNSEL.

19           MS. CHUNG: OKAY.

20           -- LISTING OUT ALL THE FORMER EMPLOYEES THAT WOULD TESTIFY  
21 ABOUT THE EXISTENCE OF THIS CONSPIRACY.

22           NOW, I KNOW YOU ALL TOOK GREAT NOTES, BUT ASK YOURSELF,  
23 SEE IF YOU CAN REMEMBER, DID ANY OF THESE WITNESSES TESTIFY  
24 THAT DR. BELCHER WAS A CONSPIRATOR OR SOMEHOW INVOLVED IN HER  
25 BILLING? OR TELLING THEM HOW TO BILL?



1           LORI LANDIS TOLD YOU DR. BELCHER WAS NOT INVOLVED IN  
2 GANESH'S BILLING. HE NEVER TOLD HER HOW TO CONDUCT GANESH'S  
3 BILLING. AFTER ALL, THAT WAS LORI LANDIS'S JOB. SHE WAS THE  
4 BILLER. IT WAS NOT DR. BELCHER'S JOB.

5           SHE GAVE DR. BELCHER ACCOUNTS RECEIVABLE REPORTS FOR HIS  
6 PRACTICE, BUT SHE SAYS SHE NEVER GAVE ANY FOR DR. GANESH'S  
7 PRACTICE TO HIM.

8           NOW, SHE DID TELL US THAT SHE TALKED TO HIM ABOUT HER  
9 DIFFICULTY WORKING WITH DR. GANESH, THAT SHE WAS  
10 NON-RESPONSIVE, FAILED TO SHOW UP TO MEETINGS, WOULDN'T GIVE  
11 HER DOCUMENTS THAT SHE NEEDED TO DO HER JOB.

12           AND, YES, DR. BELCHER KNEW ABOUT THAT. HE ADMITS THAT.

13           THAT DOESN'T MEAN THAT FROM THERE YOU JUMP TO, "MY WIFE IS  
14 ENGAGED IN FRAUD, I NEED TO GO AND AUDIT HER BUSINESS AND  
15 PRACTICE TO FIGURE OUT WHAT'S GOING ON." THAT LEAP JUST  
16 DOESN'T MAKE SENSE.

17           BUT LORI WAS CLEAR ON ONE THING. SHE TOLD YOU SHE NEVER  
18 TOLD DR. BELCHER THAT SHE SUSPECTED DR. GANESH OF FRAUD.

19           NOW, CYNTHIA JAMISON, ANOTHER BILLER THAT WORKED FOR  
20 DR. GANESH -- NEVER WORKED WITH DR. BELCHER -- SHE TESTIFIED,  
21 NO, DR. BELCHER WAS NOT INVOLVED IN GANESH'S BILLING. SHE  
22 SHOULD KNOW. SHE WAS THE ONE DOING IT. AND SHE ALSO SAID, NO,  
23 SHE DIDN'T TALK TO HIM ABOUT GANESH'S BILLING PROBLEMS.

24           NOW, I WANT TO TAKE A BRIEF MOMENT TO COMPARE WHAT LORI  
25 AND CYNTHIA ACTUALLY SAID DURING TRIAL VERSUS WHAT THE

1 GOVERNMENT TOLD YOU THEY WERE GOING TO SAY.

2 I KNOW WE'VE GONE OVER THIS ONCE BEFORE, SO I'LL TRY TO BE  
3 QUICK. "BETWEEN 2004 AND 2006, DEFENDANTS USED PROFESSIONAL  
4 BILLERS LORI LANDIS AND CINDY JAMISON."

5 THE GOVERNMENT'S ALWAYS JUST GROUPING THEM, NOT MAKING A  
6 DISTINCTION BETWEEN THE TWO DOCTORS. BUT CINDY JAMISON TOLD  
7 YOU THAT SHE DID NOT WORK FOR DR. BELCHER. SHE TOLD YOU THAT.

8 AND THE SECOND POINT, "LANDIS AND JAMISON BOTH EXPRESSED  
9 CONCERNS ABOUT THE DEFENDANTS' BILLING PRACTICES."

10 THAT'S ALSO FALSE. BOTH OF THEM TOLD YOU SPECIFICALLY  
11 THEY WEREN'T CONCERNED ABOUT DR. BELCHER'S BILLING.

12 MS. JAMISON DIDN'T EVEN KNOW ANYTHING ABOUT DR. BELCHER'S  
13 BILLING.

14 AND THEY ALSO TOLD YOU THAT "AFTER THOSE TWO BILLERS LEFT,  
15 THERE WERE NO MORE PROFESSIONAL BILLERS."

16 THAT'S ALSO A LIE. THEY HIRED JEFF DRISCO AND HE PUT IN A  
17 FULL-TIME BILLER TO SIT IN THAT OFFICE AND HELP THEM WITH THE  
18 BILLING.

19 ALL THREE CLAIMS THEY TOLD YOU ARE FALSE, AT LEAST AS TO  
20 DR. BELCHER.

21 NOW, LET'S TURN TO THE MEDICAL ASSISTANTS THAT TESTIFIED.  
22 KYARA JOHNSON, SHE WAS A MEDICAL ASSISTANT THAT WORKED FOR  
23 DR. GANESH. SHE WAS HEAVILY INVOLVED IN GANESH'S BILLING. SHE  
24 WORKED ON THE SUPERBILLS, THE HCFA FORMS THAT YOU KEPT SEEING.  
25 SHE EVEN TALKED TO INSURANCE COMPANIES ABOUT BILLING

1 DISCREPANCIES. SHE WOULD KNOW WHICH PATIENTS WERE SCHEDULED  
2 WHEN, HOW LONG DR. GANESH WAS IN THE TREATMENT ROOMS WITH THEM.

3 SHE TESTIFIED, LIKE BOTH OF THESE BILLERS, THAT  
4 DR. BELCHER WAS NOT INVOLVED IN GANESH'S BILLING. HE DIDN'T  
5 FILL OUT SUPERBILLS FOR HER. HE DIDN'T DIRECT STAFF TO DO HER  
6 BILLING, NOTHING.

7 WHEN ASKED, "DID YOU TALK TO DR. BELCHER ABOUT GANESH'S  
8 BILLING PROBLEMS," BECAUSE SHE KNEW ABOUT IT, SHE WAS ON THE  
9 PHONE WITH THE INSURANCE COMPANIES, SHE SAID, "NO, I DIDN'T."

10 LET'S TAKE ELAINE MAPA, ANOTHER MEDICAL ASSISTANT THAT  
11 WORKED FOR GANESH. SAME THING. SHE TOLD YOU, NO, DR. BELCHER  
12 WAS NOT INVOLVED IN GANESH'S BILLING. NO, SHE NEVER TALKED TO  
13 HIM ABOUT THE PROBLEMS SHE SAW IN GANESH'S BILLING.

14 IN FACT, SHE NEVER EVEN REALLY TALKED TO HIM ABOUT  
15 GANESH'S CLAIMS OR HOW TO BILL FOR THEIR PATIENTS OR ANY OF IT.

16 KYARA AND ELAINE BOTH ACTUALLY DID GANESH'S BILLING, SO  
17 THEY WOULD KNOW IF DR. BELCHER WAS INVOLVED IN GANESH OR  
18 CAMPBELL MEDICAL GROUP'S BILLING, BUT THEY SAID HE WASN'T  
19 INVOLVED.

20 LAST, SHARON THOMAS, DR. BELCHER'S OFFICE MANAGER. SHE  
21 EXONERATED HIM AS WELL. SHE, TOO, SAID THE SAME THING. HE'S  
22 NOT INVOLVED IN HER BILLING, DIDN'T TALK TO HIM ABOUT BILLING  
23 PROBLEMS.

24 AND DESPITE HAVING HER FIRED, SHE DIDN'T SPEAK ILL WILL OF  
25 DR. BELCHER. SHE DIDN'T INCRIMINATE HIM IN ANY WAY. SHE WAS

1 HIS OFFICE MANAGER. IN FACT, SHE REFERRED TO DR. BELCHER AS A  
2 PEACEKEEPER, JUST LIKE LORI LANDIS HAD, BECAUSE GANESH WAS,  
3 QUOTE, "LIKE A TASMANIAN DEVIL AT THE OFFICE." SHE SAID SHE  
4 MADE THE OFFICE ENVIRONMENT CRAZY.

5 NOW, THESE ARE THE GOVERNMENT'S OWN WITNESSES, BUT ALL  
6 BASICALLY TOLD YOU DR. BELCHER WAS NOT INVOLVED IN HER BILLING,  
7 AND THEY TOLD YOU THE TRUTH.

8 NOW, I DON'T KNOW WHY THEIR WITNESSES ARE SAYING THIS, BUT  
9 THE GOVERNMENT IS HAVING DIFFICULTY BECAUSE THEY'RE TRYING TO  
10 PROVE A CONSPIRACY THAT DOESN'T EXIST.

11 RATHER THAN FOCUSING ON WHAT THESE WITNESSES SAID, THEIR  
12 OWN WITNESSES, THEY ARE HARPING ON THE FACT, FOR INSTANCE, THAT  
13 THEY SHARED OFFICE SPACE. THEY HAVE SHOWN YOU THIS PICTURE  
14 OVER AND OVER AND OVER, LIKE AS IF THE DOOR SIGN PROVES FRAUD.  
15 AS IF THIS MEANS THEY'RE CONSPIRATORS.

16 I MEAN, THERE'S TWO DIFFERENT PHONE NUMBERS. YOU SEE  
17 CAMPBELL MEDICAL GROUP HERE. DR. BELCHER'S NAME ISN'T UNDER  
18 THAT. IT'S JUST HERS.

19 NOW, LOTS OF PROFESSIONALS IN PRIVATE PRACTICE, SUCH AS  
20 LAWYERS AND DOCTORS, SHARE OFFICE SPACE. IT'S NORMAL. I  
21 PERSONALLY SHARE OFFICE SPACE WITH SIX OR -- FIVE OR SIX OTHER  
22 LAWYERS. AND WE SHARE A LOT. YOU KNOW, WE'RE SUPER COLLEGIAL,  
23 OUR NAMES ARE ALL ON THE FRONT ENTRANCE TOGETHER, WE HAVE A  
24 CONFERENCE ROOM THAT WE SHARE, WE SHARE A COPIER. YOU KNOW, WE  
25 COVER EACH OTHER. THEIR STAFF WILL RUN TO UPS FOR ME. OUR

1 DOORS AREN'T LOCKED. YOU KNOW, PEOPLE JUST LEAVE, WHETHER IT'S  
2 HOLIDAY COOKIES OR DOCUMENTS, WHATEVER IT IS, JUST LEAVE IT ON  
3 THE DESK. WE TRUST EACH OTHER. THERE IS A LOT OF OVERLAP. WE  
4 EVEN REFER CLIENTS. AND WE DO IT WITHOUT THINKING TWICE.

5 BUT WHEN I'M STANDING HERE DAY AFTER DAY IN TRIAL, IN  
6 FRONT OF YOU, DO I KNOW WHAT'S HAPPENING IN MY COLLEAGUE'S  
7 OFFICE? DO I KNOW WHICH PATIENTS OR -- I MEAN WHICH CLIENT  
8 HE'S SEEING, OR THEY'RE SEEING? HOW LONG THEY'RE SEEING THEM  
9 FOR? IF ANYONE CANCELLED? HOW THEY'RE BILLING? HOW MUCH  
10 THEIR HOURLY RATE IS?

11 NO, I DON'T KNOW ANY OF THAT.

12 SIMILARLY, DR. BELCHER, AS YOU'VE HEARD, MOST OF THE WEEK  
13 IS IN SURGERY. HE'S NOT EVEN IN THE OFFICE ALL THE TIME TO SIT  
14 THERE AND INSPECT, WELL, HOW LONG IS DR. GANESH IN THAT ROOM  
15 WITH HER PATIENTS? WOULD HER CODE FIT?

16 HE'S NOT DOING THAT. AND HONESTLY, HE'S NOT EVEN THINKING  
17 ABOUT THAT.

18 AND WHY IS HE BEING HELD RESPONSIBLE FOR WHAT HAPPENS WITH  
19 HER PRACTICE WHEN HE'S NOT THE ONE RESPONSIBLE FOR  
20 CAMPBELL MEDICAL GROUP? SHE IS. IT'S HER PRACTICE.

21 NOW, WE ALL KNOW THE PHRASE NO GOOD DEED GOES UNPUNISHED.  
22 THAT'S WHAT COMES TO MY MIND WHEN I THINK OF DR. BELCHER  
23 HELPING HIS WIFE WITH DATA ENTRY. ACCORDING TO THE GOVERNMENT,  
24 THAT MAKES HIM A CONSPIRATOR AND A CRIMINAL.

25 NOW, I JUST WANT YOU TO TAKE A MOMENT TO IMAGINE THIS.

1 PUT YOURSELF IN HIS SHOES. YOU'VE BEEN IN SURGERY ALL DAY, YOU  
2 KNOW, RUSHING -- AFTER SURGERY, OR A FULL DAY OF WORK, RUSHING  
3 OFF TO COACH BASKETBALL AND FINALLY MAKE IT HOME EXHAUSTED, YOU  
4 SOMEHOW FIND THE ENERGY TO PREPARE DINNER, TAKE CARE OF YOUR  
5 KIDS, SPEND QUALITY TIME WITH THEM, TUCK THEM IN FOR BED.

6 AND AROUND, LET'S SAY, 1:00 OR 2:00 A.M., YOUR WIFE HANDS  
7 YOU A STACK OF SUPERBILLS AND SAYS THINGS LIKE, YOU KNOW, "THE  
8 OFFICE IS BEHIND, WE HAVE A LOT THAT WE NEED TO SUBMIT, I NEED  
9 YOUR HELP."

10 THAT IS THE LAST THING THAT DR. BELCHER WANTS TO DO AT  
11 1:00 OR 2:00 A.M. DURING THE WEEK, JUST SIT THERE AND DO DATA  
12 ENTRY WITH SUPERBILLS. HE'D RATHER JUST GET SOME SLEEP.

13 BUT HE DOESN'T WANT TO FIGHT WITH HER. HE DOESN'T WANT  
14 HER STARTING TO SCREAM AROUND IN THE HOUSE. THE KIDS ARE  
15 SLEEPING. "YEAH, I'LL HELP. IT'S FINE."

16 AND, YES, THE GOVERNMENT'S RIGHT. HE DID DO IT FOR A LONG  
17 TIME. HE SAT HIMSELF IN FRONT OF THE COMPUTER WITH A STACK OF  
18 SUPERBILLS, WHICH HE TOLD YOU IT WASN'T EVEN NICELY ORGANIZED  
19 PATIENT BY PATIENT IN CHRONOLOGICAL ORDER SO THAT IT WOULD BE  
20 EASY TO DETECT PATTERNS.

21 THEY'RE UNSORTED, THEY'RE ALL OVER THE PLACE, MIXED YEARS,  
22 UNSORTED, UNCATEGORIZED.

23 AND ALL HE WANTS TO DO IS FINISH THAT AS SOON AS POSSIBLE  
24 SO HE CAN GO TO BED. HE'S NOT THINKING, "I NEED TO AUDIT HER  
25 PRACTICE."

1           AND AS HE ENTERS WHATEVER IS ON HER SUPERBILLS LINE BY  
2           LINE, HE'S BASICALLY ZONED OUT. IT'S A MIND NUMBING TASK,  
3           ESPECIALLY AT 2:00 A.M., AND FINALLY WHEN HE'S DONE, HE JUST  
4           CRAWLS INTO BED AND THAT'S IT. AND, YES, THAT HAPPENED ON  
5           OCCASIONS AND, LIKE WE SAID BEFORE, HE DID DO THAT FOR YEARS.

6           BUT HE WAS JUST DOING THAT BECAUSE THAT'S HOW HE HAD TO  
7           DEAL WITH HIS WIFE, JUST APPEASE HER, AND HE DIDN'T, IN THOSE  
8           MOMENTS THINK, "WELL, SHE MUST BE COMMITTING HEALTH CARE FRAUD.  
9           I SHOULD GO AND, YOU KNOW, NARC ON HER AND CONTACT THE FBI TO  
10          FIGURE OUT WHY HER CODES ARE LIKE THIS."

11          I MEAN, THAT'S JUST NOT REALITY. THAT'S NOT HOW LIFE  
12          WORKS.

13          AND NOT ONLY THAT, DATA ENTRY DOESN'T MAKE YOU A  
14          CONSPIRATOR. REMEMBER, THERE WERE BILLERS, THERE WERE MEDICAL  
15          ASSISTANTS, THERE'S AT LEAST FIVE PEOPLE WHO WERE MORE INVOLVED  
16          IN DR. GANESH'S BILLING THAN HE WAS. THEY ALL TESTIFIED, AND  
17          THEY ALL TESTIFIED FOR THE GOVERNMENT. THEY ALL KNOW MORE.  
18          THEY EVEN TALKED TO INSURANCE COMPANIES AND, LIKE I SAID,  
19          THEY'RE SITTING THERE, SO THEY KNOW EXACTLY HOW LONG SHE'S IN  
20          THE ROOM WITH THE PATIENTS. WHY ARE THEY NOT CONSPIRATORS?

21          NOW, DR. BELCHER DID TELL YOU THAT AT SOME POINT, YEAH,  
22          SHE WAS BILLING THE 99215 OR 45 CODE OFTEN AND THAT SEEMED  
23          STRANGE TO HIM BECAUSE, YEAH, FOR HIM, HE DIDN'T USE IT THAT  
24          OFTEN, AND WHEN HE DID USE IT, IT WAS WHEN HE WORKED OR SAW A  
25          PATIENT FOR ABOUT AN HOUR TO AN HOUR AND A HALF.

1           AND HE TOLD YOU THAT HE ASKED HER ABOUT IT. HE DIDN'T  
2           TURN A BLIND EYE. HE DIDN'T PRETEND HE DIDN'T SEE IT. DOCTORS  
3           AREN'T BILLERS. IT'S NOT THAT CUT AND DRY. SO HE TOLD HER,  
4           "HEY, THAT LOOKS KIND OF WEIRD. WHAT'S GOING ON? YOU KNOW,  
5           THAT'S NOT HOW I INTERPRET IT."

6           HER RESPONSE? "I SEE THESE PATIENTS HEAD TO TOE. I DO  
7           EVERYTHING FOR THEM. I'M IN THERE FOR A LONG TIME. YOU DON'T  
8           KNOW WHAT YOU'RE TALKING ABOUT. THESE ARE MY PATIENTS. I'M  
9           THEIR DOCTOR."

10          AND IT'S TRUE. SHE'S THE TREATING PHYSICIAN. SHE'S THEIR  
11          DOCTOR. SHE DECIDES WHAT CODES ARE APPROPRIATE.

12          HE'S NOT A PRIMARY CARE PHYSICIAN. HE DOESN'T KNOW  
13          EXACTLY WHAT SHE SHOULD DO.

14          AND NOT ONLY THAT, HE'S SEEING DR. GANESH WORK IN THE  
15          OFFICE SEEING HER PATIENTS, UNTIL, LIKE, 9:00, 10:00 P.M. HE'S  
16          SEEING HER TEXTING WITH THEM, CALLING WITH THEM DURING OFF  
17          HOURS, LATE AT NIGHT.

18          SO HE THOUGHT, "MAYBE SHE'S RIGHT. MAYBE SHE DOES KNOW  
19          WHAT SHE'S DOING. I DON'T KNOW." AND HE JUST DIDN'T THINK  
20          TWICE ABOUT IT AFTER THAT.

21          AND WHAT ELSE WAS HE SUPPOSED TO DO? CHANGE THE CODES?  
22          THAT WOULD BE UNETHICAL.

23          REPORT HER BECAUSE HE THINKS THERE MIGHT BE SOMETHING  
24          WRONG WITH ONE OF HER CPT CODES? CALL THE MEDICAL ASSOCIATION  
25          AND TELL THEM "MY WIFE IS DOING" -- THAT'S JUST ABSURD. HE



1 GAVE HER THE BENEFIT OF THE DOUBT.

2 AND LIKE I SAID, ULTIMATELY SHE'S THE TREATING PHYSICIAN  
3 FOR HER PRACTICE AND IT WAS HER DECISION WHAT CPT CODES WERE  
4 APPROPRIATE, NOT HIS.

5 NOW, THE GOVERNMENT ALSO TOLD YOU, WELL, HE SHOULD HAVE  
6 KNOWN BECAUSE THE MONEY THAT WENT INTO THAT KRD ACCOUNT WAS  
7 FROM BLUE CROSS AND BLUE SHIELD AND ALL THOSE CHECKS WERE  
8 KUHLMAN, RILEY & DEWEES, AND WHEN HE'S SUBMITTING THESE CLAIMS,  
9 HE SHOULD HAVE SEEN THAT IT'S KUHLMAN, RILEY & DEWEES.

10 WHAT THEY FORGOT TO TELL YOU IS THAT MOST OF THE CLAIMS  
11 FOR THOSE TWO INSURANCE COMPANIES -- NOW, THEY WERE -- THE  
12 CLAIMS WERE SUBMITTED ON PAPER. DR. BELCHER DIDN'T HANDLE THE  
13 PAPER CLAIM SUBMISSIONS. HE HANDED THE ELECTRONIC ONES.

14 SO THEY HAVEN'T EVEN SHOWN YOU, AND WE HAVEN'T EVEN KNOWN  
15 HOW MANY OR ANYTHING, WHICH CLAIMS HE SUBMITTED WHICH COMPARED  
16 TO HOW MANY HIS MEDICAL ASSISTANT AND HER AND THE OFFICE  
17 SUBMITTED, IS SMALL. SO WE DON'T EVEN KNOW WHAT THEY'RE  
18 CLAIMING IS COMPLETELY TRUE.

19 NOW, THE CONSPIRACY CLAIM TYING DR. GANESH TO  
20 DR. BELCHER'S PRACTICE FOR PHYSICAL THERAPY IS ALSO  
21 UNBELIEVABLY THIN. IT'S ALL BASED ON THE FACT THAT SHE  
22 REFERRED THERAPY PATIENTS TO HIS CLINIC. THEY TOLD YOU THERE  
23 WAS NO OTHER DOCTOR THAT REFERRED PATIENTS TO HIM.

24 THAT'S NOT TRUE. HE TOLD YOU THAT THERE WAS MAYBE ONE OR  
25 TWO. AND YOU MIGHT THINK, WELL, THAT'S NOT MANY. BUT, YEAH,

1 THERE WERE ONE OR TWO AND HE DID TREAT THOSE -- OR HIS CLINIC  
2 DID TREAT THOSE PATIENTS.

3 BUT HE -- HE DIDN'T GET REFERRALS FROM OTHER DOCTORS  
4 BECAUSE HE DIDN'T ADVERTISE THIS EVERYWHERE. HE WASN'T SAYING,  
5 "HEY, COME TO MY CLINIC, SEND YOUR PATIENTS." BECAUSE THIS  
6 WASN'T ABOUT MONEY FOR HIM. MORE PATIENTS MEANS MORE MONEY.  
7 WHY NOT JUST ADVERTISE, GET MORE PATIENTS, AND MAKE MORE MONEY?  
8 I MEAN, FRAUD IS ALL ABOUT THE MONEY, RIGHT?

9 AND IF THEIR POINT -- IF THEY'RE PAINTING HIM AS THIS  
10 GREEDY PERSON, WHY IS HE DOING EVERYTHING THAT SEEMS LIKE HE  
11 WOULDN'T MAKE AS MUCH MONEY? IT'S LIKE -- IT'S CONTRADICTIONARY.

12 NOW, LET'S TAKE A LOOK AT THE JURY INSTRUCTIONS FOR  
13 CONSPIRACY TO COMMIT HEALTH CARE FRAUD.

14 NOW, YOU'VE SEEN THIS A LOT TODAY WITH THE OTHER PARTIES,  
15 BUT CONSPIRACY, THERE NEEDS TO BE AN AGREEMENT BETWEEN THESE  
16 TWO DOCTORS, AND THERE WAS JUST A TON DR. BELCHER AND  
17 DR. GANESH DIDN'T AGREE ON. HE DIDN'T AGREE WITH DR. GANESH  
18 SUING LORI LANDIS OR ANY OF THE PEOPLE THAT SHE SUED, INCLUDING  
19 HIS COUSIN, DONISIA. OF COURSE HE DIDN'T SUE HER.

20 HE DIDN'T AGREE WITH DR. GANESH PUTTING UP INSURANCE  
21 POSTERS ALL OVER THE OFFICE AND OBSESSING OVER HOW MUCH THE  
22 CEO'S WERE PAID.

23 HE DIDN'T AGREE WITH HER ON HER INSISTENCE ON USING  
24 CASHIER'S CHECKS. IN FACT, IT WOULD HAVE MADE HIS LIFE A LOT  
25 EASIER, LIKE MR. DELAHUNTY SAID, IF HE COULD JUST HAVE HER USE

1 A CHECK.

2 AND HE TOLD HER HE THOUGHT MAYBE 99215 WASN'T THE RIGHT  
3 CODE. SHE DISAGREED. SHE DIDN'T LISTEN. THAT WAS THE END OF  
4 IT.

5 DR. BELCHER NEVER AGREED OR CONSPIRED TO HELP HER COMMIT  
6 FRAUD.

7 AND DR. BELCHER, IF YOU READ DOWN HERE, ACCORDING TO THE  
8 LAW, YOU DON'T BECOME A CONSPIRATOR JUST BY ASSOCIATING WITH  
9 SOMEONE. THAT'S WHAT THE GOVERNMENT IS TRYING TO DO. THEY'RE  
10 SAYING HE ASSOCIATED WITH HER IN SO MANY WAYS, RIGHT, AND HOW  
11 COULD HE NOT? THEY SHARE OFFICE SPACE. THEY HAVE A  
12 RELATIONSHIP. OF COURSE THEY'RE INTERTWINED.

13 IT DOESN'T MAKE HIM A CRIMINAL AND IT DOESN'T MAKE HIM A  
14 CONSPIRATOR.

15 NOW, LET'S SHIFT TO TALK ABOUT MONEY LAUNDERING.

16 SO THE MONEY LAUNDERING CHARGES IN THIS CASE ARE ALL ABOUT  
17 THE MONEY DR. GANESH MADE FROM HER MEDICAL PRACTICE. THESE  
18 CHARGES HAVE NOTHING TO DO WITH THE MONEY MADE FROM  
19 DR. BELCHER'S SURGICAL PRACTICE. IT HAS NOTHING TO DO WITH THE  
20 MONEY MADE FROM HIS THERAPY PRACTICE. SO YOU MUST BE  
21 WONDERING, IF IT'S ALL ABOUT THE MONEY FROM HER PRACTICE, WHY  
22 IS HE CHARGED WITH MONEY LAUNDERING?

23 MAINLY BECAUSE HE'S A SIGNER ON HER ACCOUNTS, BECAUSE HE  
24 DEPOSITED CHECKS PAYABLE TO KRD, HE WITHDREW MONEY AS CASHIER'S  
25 CHECKS, HE USED CASHIER'S CHECKS TO ULTIMATELY PAY EXPENSES.

1 BUT NONE OF THOSE THINGS ARE CRIMES.

2 AND THE GOVERNMENT HAS TRIED TO POINT TO THE NUMBER OF  
3 BANK ACCOUNTS, THE UNUSUAL NATURE OF PURCHASING CASHIER'S  
4 CHECKS AND THE FACT THAT HER CHECKS SAID  
5 KUHLMAN, RILEY & DEWEES EVEN AFTER DR. DEWEES LEFT.

6 BUT WE'RE NOT DISPUTING ANY OF THAT. HE DID ALL OF THOSE  
7 THINGS.

8 SO THE MORE APPROPRIATE QUESTION HERE IS, WHY DID HE  
9 BECOME A SIGNER ON HER ACCOUNTS? WHY DID HE USE CASHIER'S  
10 CHECKS? WHY DID HE DO ANY OF THIS?

11 BECAUSE THAT'S THE QUESTION YOU NEED TO ANSWER TO  
12 DETERMINE WHETHER DR. BELCHER IS NOT GUILTY OR GUILTY. THIS  
13 CASE IS ALL ABOUT THE WHY QUESTIONS.

14 AND DR. BELCHER HAS MADE IT REALLY EASY FOR YOU. HE TOOK  
15 THE STAND AND HE TOLD YOU EXACTLY WHY.

16 NOW, THE GOVERNMENT CAN SPECULATE ALL DAY LONG ON WHY THEY  
17 THINK HE DID IT. BUT ULTIMATELY, THE BEST SOURCE IS  
18 DR. BELCHER HIMSELF, AND DR. BELCHER TOLD YOU AT THE VERY END  
19 OF HIS TESTIMONY THAT HE'S NOT A CONSPIRATOR, HE'S NOT  
20 LAUNDERING MONEY, THAT HE FIRST BECAME A SIGNER ON DR. GANESH'S  
21 BANK ACCOUNTS ALL THE WAY BACK IN 2005. HE HAD JUST MET HER IN  
22 2004.

23 WHEN SHE ASKED NOT JUST HIM TO BE A SIGNER, BUT ALSO  
24 DR. EDWARD DEWEES, THEY BOTH BECAME SIGNERS ON HER ACCOUNT.

25 AND FOR DR. BELCHER, THEY STARTED DATING, SHARED OFFICE

1 SPACE, YOU KNOW, AND SINCE HE USED THE SAME ACCOUNT -- I MEAN  
2 THE SAME BANK AND HE WAS ALREADY GOING TO DEPOSIT HIS OWN  
3 CHECKS, HE'S LIKE, "WHY NOT? SURE, I'LL HELP."

4 THEN AROUND 2008, DR. GANESH INSISTED ON STARTING TO USE  
5 CASHIER'S CHECKS WHEN DEALING WITH ACCOUNT 8753. AND SOME OF  
6 YOU MAY THINK, WELL, THAT'S STRANGE. RIGHT?

7 AND DR. BELCHER WOULD AGREE WITH YOU. IT'S STRANGE. HE  
8 ACTUALLY THOUGHT IT WAS RIDICULOUS AND TOLD HER SHE SHOULD PUT  
9 HER MONEY IN A SAVINGS ACCOUNT. THAT'S WHAT HE DOES.

10 BUT DR. GANESH GAVE HIM SOME EXPLANATION ABOUT THE ADVICE  
11 SHE GOT FROM HER CPA IN INDIA AND REFUSED TO LISTEN TO HIM.  
12 AND WE DON'T EVEN KNOW IF THE ADVICE WAS TRUE OR NOT. IT  
13 DOESN'T MATTER.

14 HE COULDN'T CHANGE HER MIND. AND REALISTICALLY, HOW COULD  
15 HE? THE GOVERNMENT MAKES IT SOUND LIKE IT WOULD HAVE BEEN SO  
16 EASY.

17 BUT DR. LEVINSON TOLD YOU THAT IT WOULD BE NEARLY  
18 IMPOSSIBLE TO GET DR. GANESH TO CHANGE HER OPINION OR BEHAVIOR  
19 WHEN SHE FEELS STRONGLY ABOUT CERTAIN THINGS, AND THAT IT  
20 DOESN'T MATTER IF YOU SPEAK TO HER SLOWLY, CLEARLY, AND CALMLY,  
21 IT'S NOT GOING TO MAKE A DIFFERENCE.

22 AND REMEMBER 2008 IS WHEN DR. BELCHER AND DR. GANESH  
23 STARTED HAVING A LOT OF PROBLEMS AND HAD A LOT OF  
24 DISAGREEMENTS. HE HAD A LOT THAT HE COULDN'T CONTROL ABOUT HIS  
25 WIFE. HE DID NOT KNOW WHY, BUT THAT QUIRKY, PASSIONATE,

1 INTELLIGENT WOMAN HE'D MET, SHE WAS JUST NO LONGER THERE.

2 AND THE GOVERNMENT SAYS, "WELL, HE SHOULD HAVE KNOWN THESE  
3 CASHIER'S CHECKS ARE WEIRD," AND WE'RE ALL SITTING HERE  
4 THINKING, IT IS WEIRD.

5 BUT YOU HAVE TO REMEMBER THE CONTEXT. THAT'S NOT THE ONLY  
6 THING SHE WAS DOING.

7 IF IT HAPPENED, YEAH, YOU'RE RIGHT, MAYBE IT WOULD HAVE  
8 BEEN REALLY SUSPICIOUS.

9 BUT SHE'S DOING THINGS THAT ARE EVEN MORE RIDICULOUS.  
10 SHE'S FILING LAWSUITS LEFT AND RIGHT, CALLING 911 AS IF IT'S A  
11 BAND-AID FOR ALL HER PROBLEMS WITH PEOPLE. THERE'S THE  
12 LORI LANDIS LAWSUIT, THE DR. DEWEES LAWSUIT, CONTRACTOR AFTER  
13 CONTRACTOR. SHE CALLED 911 ON HIS SON, GREG JUNIOR. YOU THINK  
14 HE WANTED HER TO DO THAT? AND SHE EVEN SHOWED UP IN OCEANSIDE,  
15 CALIFORNIA, ON CHRISTMAS DAY, WITHOUT TELLING HIM THAT, AND SHE  
16 CALLED THE COPS ON HIS COUSIN CLAIMING THAT THEY WERE SQUATTERS  
17 IN THEIR HOUSE. SHE TRIED TO GET HER EVICTED.

18 THAT'S NOT WHAT DR. BELCHER WANTED. IF HE COULD CONTROL  
19 HER, NONE OF THAT WOULD HAVE HAPPENED. SHE WOULDN'T HAVE  
20 WASTED ALL THIS MONEY ON LAWYERS. IT DOESN'T MAKE ANY SENSE.

21 SHE ALSO WAS OBSESSED AT THE OFFICE WITH HOW MUCH MONEY  
22 CEO'S FOR THE INSURANCE COMPANIES WERE MAKING. YOU'VE SEEN THE  
23 GOVERNMENT SHOWING YOU ALL THESE POSTERS. THAT'S A BIT  
24 UNPROFESSIONAL TO PUT THAT UP IN YOUR MEDICAL OFFICE.

25 AND DR. BELCHER TOLD YOU HE TRIED TO TAKE IT DOWN. IT'S

1 EMBARRASSING. AND HE WOULD TAKE IT DOWN AND IT WOULD GO RIGHT  
2 BACK UP. TAKE IT DOWN, GO RIGHT BACK UP.

3 WHAT IS HE SUPPOSED TO DO? FIGHT WITH HER EVERY DAY?

4 IN 2008, DR. BELCHER EVEN TRIED TO GET HER HELP AND HE  
5 REACHED OUT TO DR. LEVINSON SAYING, "I'M HAVING PROBLEMS. I  
6 DON'T KNOW WHAT'S WRONG WITH HER." HE HAD HIS GUESS, YOU KNOW,  
7 MAYBE BIPOLAR. BUT HE DIDN'T KNOW. HE'S NOT A PSYCHIATRIST.

8 BUT -- MIND YOU, AT THAT TIME, THIS IS SEVEN YEARS BEFORE  
9 HE EVEN LEARNED ABOUT THE GOVERNMENT'S INVESTIGATION. THIS IS  
10 SEVEN YEARS BEFORE HE HAD ANY KNOWLEDGE ABOUT THIS CASE. THIS  
11 CASE HADN'T EVEN STARTED YET.

12 HE DIDN'T HAVE A MOTIVE TO LIE OR MAKE SOMETHING UP TO  
13 HELP HER DEFENSE OR HELP HIS DEFENSE. HOW -- UNLESS HE CAN  
14 PREDICT THE FUTURE. THERE'S JUST NO WAY. HE WASN'T MAKING  
15 THAT UP. THERE WERE REAL PROBLEMS. BUT SHE REFUSED TO SEE  
16 DR. LEVINSON.

17 AND WITH ALL THE DRAMA THAT DR. GANESH WAS STIRRING UP IN  
18 THEIR LIVES, CASHIER'S CHECKS SEEMED TO FIT RIGHT IN WITH ALL  
19 HER NONSENSICAL OBSESSIONS AND LOOK LIKE IT WAS MORE VILASINI  
20 NONSENSE, NOT MONEY LAUNDERING.

21 IN FACT, THE TWO FORENSIC ACCOUNTING EXPERTS THAT  
22 TESTIFIED, ONE FROM THE GOVERNMENT AND ONE FROM OUR SIDE, THEY  
23 BOTH TOLD YOU IN THEIR DECADES AND DECADES OF EXPERIENCE,  
24 NEITHER OF THEM HAD EVER SEEN MONEY LAUNDERING USING CASHIER'S  
25 CHECKS LIKE THIS.

1           NOW, IF THESE PROFESSIONALS DIDN'T EVEN THINK THIS WAS A  
2           NORMAL WAY PEOPLE WOULD, I GUESS, LAUNDER MONEY, HOW THE HECK  
3           WAS DR. BELCHER SUPPOSED TO FIGURE THAT OUT? IT'S JUST NOT  
4           WHAT HE THOUGHT.

5           AND ULTIMATELY, DR. BELCHER IS CHARGED WITH MONEY  
6           LAUNDERING BECAUSE AFTER YEARS OF BEING WITH DR. GANESH, AT  
7           SOME POINT HE COULD NO LONGER CARRY ON THE BURDEN OF PAYING FOR  
8           ALL THESE EXPENSES BY HIMSELF. HE BARELY HAD ANY SAVINGS.

9           YES, HE MADE A LOT OF MONEY. HE IS AN ORTHOPEDIC SURGEON.  
10          I'M NOT SAYING HE WAS BROKE AND ON THE STREETS. THAT'S NOT  
11          WHAT I'M SAYING. YES, HE MADE A LOT OF MONEY.

12          BUT HIS EXPENSES WERE SO HIGH BECAUSE, ONE, HE'S PAYING  
13          FOR A FAMILY OF SEVEN IN THE HEART OF SILICON VALLEY, THAT'S  
14          NOT CHEAP; AND, TWO, HE WAS PAYING FOR ALL OF THE KIND OF BIG  
15          EXPENSES IN THEIR LIFE, LIKE THE MORTGAGE.

16          DURING THAT TIME, DR. GANESH WAS SUPPOSED TO BE SAVING HER  
17          MONEY. SHE WAS WORKING ALL THE TIME. NO ONE SAYS SHE'S NOT IN  
18          THE OFFICE. SHE'S WORKING SO SHE'S -- AND SINCE SHE'S NOT  
19          PAYING FOR ALL THESE BIG EXPENSES, SHE SHOULD BE SAVING HER  
20          MONEY. HE DIDN'T ACCESS HER BANK STATEMENTS TO SEE, WELL, HOW  
21          MUCH IS SHE MAKING THIS WEEK AND HOW MUCH IS -- THAT'S NOT  
22          HAPPENING. HE DIDN'T BALANCE HER BOOKS.

23          IN FACT, THEY HAVE SEPARATE CPA'S. THEY DON'T EVEN FILE  
24          THEIR TAXES TOGETHER. IT'S DONE ALL SEPARATELY.

25          SO WHEN HE NEEDED MONEY, HE ASKED HIS WIFE, "YOU NEED TO



1 HELP OUT. YOU'VE BEEN SAVING FOR YEARS. YOU NEED TO HELP ME  
2 OUT."

3 THERE'S NOTHING CRIMINAL ABOUT A HUSBAND ASKING HIS WIFE  
4 TO HELP HIM AND JUST HELP PAY FOR THE EXPENSES.

5 NOW, THE PROBLEM THAT COMES, WELL, WHY DIDN'T HE JUST  
6 WRITE A CHECK? RIGHT? THAT'S BEEN KIND OF THE ONGOING  
7 QUESTION.

8 BECAUSE HE DIDN'T HAVE ACCESS TO HER CHECKS. HE COULDN'T  
9 JUST GO IN -- YES, THEY'RE TOGETHER AND, YES, HE'S A SIGNER.  
10 BUT HE COULDN'T JUST GO IN AND NOT TELL HER AND JUST TAKE ALL  
11 HER MONEY. THAT'S NOT HOW IT WORKS.

12 AND SHE WOULDN'T WRITE HIM A NORMAL CHECK LIKE SHE  
13 WOULDN'T DO A LOT OF OTHER THINGS.

14 AND HE DIDN'T HAVE ACCESS TO CHECKS FROM THAT ACCOUNT.  
15 CERTAINLY HE MIGHT HAVE BEEN ABLE TO GO INTO THE BANK AND SAY,  
16 "I WANT, YOU KNOW, CHECKS. COULD YOU GIVE THEM TO ME?"

17 BUT HE WOULD NEED HER PERMISSION TO DO THAT BECAUSE,  
18 REMEMBER, THE KRD ACCOUNT IS HER EARNINGS. IT'S HER MONEY.  
19 HE'S NOT JUST GOING TO GO AND DO WHATEVER HE WANTS WITH IT.

20 SO WHEN SHE WOULDN'T WRITE HIM A NORMAL CHECK AND HE  
21 DOESN'T HAVE A CHECK CARD FOR THE ACCOUNT, HE DIDN'T WANT TO  
22 CARRY AROUND LARGE AMOUNTS OF CASH EVERYWHERE, SO HE THOUGHT,  
23 "OKAY, WELL, SHE'S BEEN DOING THIS CASHIER'S CHECK THING. I'LL  
24 JUST DO THAT, TOO. IT'S EASY. BECAUSE I NEED TO GET THE MONEY  
25 FROM HER, SO I'LL GO TO THE BANK, PURCHASE A CASHIER'S CHECK,

1 PUT IT INTO MY ACCOUNT, AND PAY WHOEVER NEEDS TO BE PAID."

2 NOW, THIS MORNING MR. DELAHUNTY ARGUED THAT DR. BELCHER  
3 ONLY USES HIS CASHIER'S CHECKS IN THE KRD ACCOUNT BECAUSE HE'S  
4 LAUNDERING MONEY. AND HE SHOWED YOU THE SARATOGA LASER CENTER  
5 ACCOUNT WHICH -- TO SHOW THAT THE CHECKS FROM THAT ACCOUNT HAVE  
6 HIS NAME ON IT. FOR THAT ACCOUNT, WHICH DR. GANESH AND  
7 DR. BELCHER'S NAMES ARE ON FOR SARATOGA LASER, HE HAS CHECKS  
8 AND HE'S CUTTING THEM. SO, I MEAN, THEIR NAMES ARE ON THE KRD  
9 ACCOUNT, TOO. WHY ISN'T HE CUTTING CHECKS THERE?

10 AND HE'S SAYING THAT SHOWS MOTIVE AND TRYING TO HIDE  
11 SOMETHING.

12 IT'S SIMPLE. THE KRD ACCOUNT IS THE BANK ACCOUNT FOR  
13 DR. GANESH'S MEDICAL PRACTICE, NOT DR. BELCHER. LIKE I SAID,  
14 THE MONEY IN THAT ACCOUNT ARE HER EARNINGS, NOT HIS. HE'S JUST  
15 A SIGNER.

16 AND IF YOU REMEMBER MS. KIKUGAWA'S TESTIMONY, SHE SAID  
17 BEFORE WHEN SHE WAS IN PRIVATE PRACTICE AND SHE HAD A COMPANY  
18 WHERE SHE WAS A SIGNER ON THE BANK ACCOUNT, AND I THINK  
19 MR. HICKEY ASKED HER, "IS ALL THAT MONEY YOURS? YOU CAN DO  
20 WHATEVER YOU WANT WITH IT?" NO. SHE'S A SIGNER ON THE  
21 ACCOUNT. THAT DOESN'T MEAN SHE COULD TAKE ALL HER COMPANY'S  
22 MONEY.

23 AND THAT'S THE SAME WITH DR. BELCHER. AND, IN FACT, WHEN  
24 HE FIRST AGREED TO BE A SIGNER IN 2005 FOR HER BUSINESS  
25 ACCOUNTS, THAT WAS A BANK OF THE WEST ACCOUNT AT THE TIME AND

1 BEFORE SHE HAD SWITCHED TO BANK OF AMERICA. I WANT TO SHOW YOU  
2 THE CHECKS FROM THAT ACCOUNT.

3 NOW, THIS IS THE ACCOUNT THAT HE WAS A SIGNER ON. THIS IS  
4 THE FIRST TIME SHE ASKED HIM AS A FAVOR, "CAN YOU BE A SIGNER  
5 ON MY ACCOUNT?" THAT'S A CHECK FROM THAT ACCOUNT.

6 DR. GANESH AND DR. DEWEES'S NAMES ARE ON IT, NOT  
7 DR. BELCHER. WHY? BECAUSE HE'S TELLING YOU THE TRUTH. HE'S  
8 JUST A SIGNER ON THE ACCOUNT.

9 SO NOW SARATOGA LASER, GOING BACK. WHY DOES HE HAVE  
10 CHECKS THERE THEN? BECAUSE HE TOLD YOU, HE'S A CO-OWNER OF  
11 THAT BUSINESS. UNLIKE KRD OR CAMPBELL MEDICAL GROUP, HE WAS AN  
12 OWNER OF SARATOGA LASER. SO WHEN THEY CREATED A BANK ACCOUNT,  
13 OF COURSE THE MONEY GOING IN IS PARTIALLY HIS. HE HAS A RIGHT  
14 TO THE CHECKS. THAT'S THE EXPLANATION. AND THIS CHECK ALSO  
15 PROVES AND SUPPORTS HIS STORY.

16 NOW, AS YOU'VE LEARNED, DR. BELCHER ONLY TOOK CASHIER'S  
17 CHECKS FROM DR. GANESH WHEN HE NEEDED HER TO PITCH IN, AND HE  
18 NEVER HELD ON TO THE CASHIER'S CHECKS FOR YEARS AND YEARS.  
19 THAT WASN'T HIM. THAT WAS SOMETHING SHE DID. SHE DIDN'T EVEN  
20 TELL HIM WHERE SHE KEPT THEM.

21 NOW, MR. DELAHUNTY THIS MORNING ACCUSED DR. BELCHER OF  
22 LYING. THAT'S NOT TRUE.

23 IN FACT, THE GOVERNMENT'S MISLEADING YOU. WE NEVER  
24 CLAIMED THAT HE DIDN'T PURCHASE THE CASHIER'S CHECKS. WE NEVER  
25 CLAIMED HE DIDN'T USE IT. THE CHECK THAT HE POINTED TO, YEAH,

1 DR. BELCHER PURCHASED IT IN 2000 I THINK IT WAS 11, BUT IT WAS  
2 PAYABLE TO DR. GANESH. WHERE IS THE PROOF THAT HE'S THE ONE  
3 THAT WAS HOLDING ON TO IT? DO THEY HAVE VIDEO SURVEILLANCE  
4 PROVING THAT? IS THERE ANY WITNESSES TELLING US THAT THAT'S  
5 WHAT HAPPENED? NO.

6 THOSE CHECKS THAT WERE HELD FOR YEARS, MS. KINSEL TOLD  
7 YOU, THEY WERE ALL PAYABLE TO HER.

8 BUT THERE ARE CASHIER'S CHECKS THAT HE PURCHASED THAT ARE  
9 PAYABLE TO HIMSELF. NONE OF THOSE ARE KEPT FOR YEARS. NOT  
10 ONE. HE'S NOT LYING.

11 AND DR. BELCHER NEVER HAD A REASON TO SUSPECT HER MONEY.  
12 LIKE I SAID, HE'S PAYING ALL THE EXPENSES, SHE'S WORKING ALL  
13 THE TIME, DOESN'T HAVE TO PAY FOR THE MORTGAGE. SHE'S A  
14 DOCTOR, HAS A LOT OF PATIENTS. WE'VE HEARD  
15 CAMPBELL MEDICAL GROUP HAD HIGH VOLUME. WHY IN THE WORLD WOULD  
16 SHE NOT HAVE MONEY? IF SHE WAS RAKING IN \$10 MILLION, MAYBE,  
17 YEAH, THAT WOULD RAISE AN EYEBROW. BUT THAT'S NOT THE CASE.

18 AND IN TERMS OF KUHLMAN, RILEY & DEWEES, FROM THE MOMENT  
19 HE MET DR. GANESH, IT WAS ALWAYS HIS UNDERSTANDING, YOU KNOW,  
20 WHEN SHE FIRST ASKED HIM FOR ADVICE ON HOW TO BUY IT, WHETHER  
21 OR NOT SHE SHOULD BUY THE PRACTICE -- I MEAN, THAT'S HOW THEY  
22 MET.

23 AND HE TOLD HER WHAT HE HAD EXPERIENCED IN RUNNING HIS OWN  
24 PRACTICE, AND AT THAT TIME, HE GAVE HER HIS ADVICE, LEARNED  
25 THAT SHE'D PURCHASED THE PRACTICE, LATER DR. DEWEES CAME TO

1 WORK UNDER HER, NOT AS A CO-OWNER, BUT UNDER HER. AND HE  
2 WASN'T PART OF THE NEGOTIATIONS. ALL HE KNOWS IS SHE HIRED  
3 SOME LAWYERS AND SHE BOUGHT THE PRACTICE.

4 SO WHEN DR. DEWEES LEFT IN 2006, YEAH, HE SAW THE CHECKS  
5 COMING IN PAYABLE TO KUHLMAN, RILEY & DEWEES, BUT IT'S A D.B.A.

6 AND THE GOVERNMENT SAID, WELL, WHY ISN'T IT ON THE DOOR?  
7 WELL, REALLY? DO YOU THINK EVERY COMPANY THAT HAS A SIGN  
8 OUTSIDE THEIR DOOR INCLUDES THEIR D.B.A.? DR. VILASINI GANESH,  
9 CAMPBELL MEDICAL GROUP, D.B.A. KUHLMAN, RILEY -- NO, YOU DON'T  
10 NEED TO DO THAT. THAT DOESN'T PROVE ANYTHING.

11 HE HAD NO REASON TO DOUBT THAT SHE PURCHASED KUHLMAN -- I  
12 MEAN CAMPBELL MEDICAL GROUP, D.B.A. KUHLMAN, RILEY & DEWEES,  
13 T.I.N., NAME AND ALL. LIKE, WHY WOULD HE THINK SHE'S LYING TO  
14 HIM? HE JUST NEVER GAVE IT MUCH THOUGHT.

15 SO HE DIDN'T HAVE A REASON TO BE SUSPICIOUS ABOUT THE  
16 MONEY. HE DIDN'T HAVE A REASON TO BE SUSPICIOUS ABOUT THE KR  
17 CHECKS.

18 BECAUSE, REMEMBER, THE GOVERNMENT SAYS THEY'RE TRYING TO  
19 HIDE SOMETHING BY ALL THESE TRANSACTIONS. BUT DR. BELCHER  
20 NEVER MADE AN EFFORT TO HIDE THAT HE'S INVOLVED. I MEAN, THE  
21 KUHLMAN, RILEY & DEWEES CHECKS, IF HE THOUGHT THAT MONEY WAS  
22 FRAUD MONEY, WHY WOULD HE GO TO THE BANK, DEPOSIT IT, WRITE HIS  
23 NAME ON THE DEPOSIT SLIP WHICH WOULD TIE HIM DIRECTLY TO THAT  
24 MONEY?

25 NO. WHAT HE WOULD DO IS SAY, "I DON'T WANT TO DO THAT."

1 SEND SOMEONE ELSE." THAT'S HOW HE WOULD START OFF, BY  
2 DISTANCING HIMSELF.

3 NO. HE PUTS HIS NAME ON IT, DEPOSITS IT, THAT'S IT.  
4 BECAUSE HE'S NOT THINKING THERE'S SOMETHING WRONG WITH THE  
5 MONEY.

6 AND HE NEVER MADE AN EFFORT TO HIDE THAT HE'S PURCHASING  
7 CASHIER'S CHECKS FOR HIS WIFE. HE GOES TO THE BANK AND DOES  
8 IT. THERE'S A RECORD, ONCE AGAIN, WITH HIS NAME ON IT LIKE  
9 YOU'VE SEEN.

10 AND HE'S NEVER MADE AN EFFORT TO HIDE THAT HE'S  
11 WITHDRAWING FUNDS FROM THAT ACCOUNT WHEN HE NEEDS THE MONEY.  
12 IF HE DOESN'T WANT HIS NAME AS THE PERSON GOING IN, WHY NOT  
13 JUST SEND A FRIEND OR A MEDICAL ASSISTANT THAT DOESN'T KNOW ANY  
14 BETTER AND SAY, "CAN YOU GO GET ME THOSE CASHIER'S CHECKS?"

15 HE COULD HAVE DISTANCED HIMSELF. HE'S A SMART GUY. THEY  
16 ALL SAID HE'S A SMART GUY. ISN'T THAT THE OBVIOUS WAY TO  
17 DISTANCE YOURSELF FROM MONEY THAT YOU THINK IS FRAUD AND IS  
18 GOING TO GET YOU IN TROUBLE? NOT PLASTERING YOUR NAME ALL OVER  
19 IT WITH EVERY TRANSACTION THAT YOU DO. WHERE IS THE EFFORT TO  
20 HIDE?

21 AND WHEN HE USED THE MONEY, LIKE THE COUNTS IN THE  
22 INDICTMENT, HE TAKES THOSE CASHIER'S CHECKS, PUTS THEM IN AN  
23 ACCOUNT THAT'S UNDER HIS NAME, AND THEN HE WRITES A CHECK --  
24 THAT'S HIS CHECK -- TO THEIR CONTRACTOR FOR \$92,000.

25 AND WHEN HE DEPOSITS THOSE FIVE CASHIER'S CHECKS, LIKE THE

1 GOVERNMENT TOLD YOU, HE USES IT IMMEDIATELY BECAUSE THAT'S WHY  
2 HE ASKED HER FOR THE CHECKS, BECAUSE HE NEEDED TO PAY  
3 DOLAN DEVELOPMENT AND THEY NEEDED THEIR ROOF FIXED.

4 HE WAS JUST TRYING TO KEEP EVERYTHING AFLOAT AND TAKING  
5 THE MONEY FROM HIS WIFE IN WHATEVER WAY SHE WAS GOING TO GIVE  
6 IT TO HIM. HE HAD JUST LAWSUITS AND 911 CALLS AND OTHER INSANE  
7 THINGS THAT WERE HAPPENING THAT HE HAD TO WORRY ABOUT, PUTTING  
8 ONE FIRE OUT AFTER ANOTHER. AND ON TOP OF IT, HE'S ALREADY A  
9 BUSY GUY.

10 NOW, FINALLY, LET'S TALK ABOUT PHYSICAL THERAPY.

11 NOW, DR. BELCHER KNOWS THAT SURGERY IS ONLY AS GOOD AS THE  
12 REHAB DONE AFTERWARDS, AND YOU'VE HEARD AT LENGTH ABOUT HOW  
13 IMPORTANT THAT IS, SO I'M NOT GOING TO DRAG YOU THROUGH THAT  
14 ALL OVER AGAIN.

15 NOW, HE OPENED HIS PHYSICAL THERAPY CLINIC IN 2009 WITH  
16 THE VISION TO PROVIDE HIGH QUALITY COMPREHENSIVE REHAB FOR HIS  
17 PATIENTS. HE WANTED TO PROVIDE HIS PATIENTS THE BEST  
18 THERAPISTS, THE BEST QUALITY OF CARE, AND ABIGAIL CABRAL TOLD  
19 YOU HIS CLINIC WAS PATIENT FOCUSED.

20 HE REQUIRED HER, WHEN SHE STARTED WORKING, "YOU NEED TO  
21 SPEND 60 MINUTES WITH EACH PATIENT." SHE TOLD YOU IN OTHER  
22 CLINICS, PHYSICAL THERAPISTS WOULD OFTEN SPEND 15, 20 MINUTES  
23 WITH A PATIENT, AND THEN THE REST OF THE SESSION IS HANDLED BY  
24 TECHNICIANS OR ASSISTANTS OF SOME SORT, MAYBE A MASSAGE  
25 THERAPIST, BECAUSE THIS WOULD ALLOW THESE OTHER CLINICS THAT

1 SHE'S SEEN TO SEE A HIGHER VOLUME OF PATIENTS, AND MORE  
2 PATIENTS, LIKE I SAID, MEANS MORE MONEY.

3 SHE DIDN'T THINK HE WAS FOCUSED ON THE MONEY. THE  
4 GOVERNMENT THINKS, APPARENTLY, THAT HE IS. BUT SHE DIDN'T  
5 THINK SO.

6 AND IF HIS PHYSICAL THERAPY CLINIC WAS ALWAYS ABOUT MAKING  
7 THE MONEY, WHY DOES SHE TELL US THAT WHENEVER SHE NEEDED  
8 SUPPLIES, NO MATTER WHAT THE COST, DR. BELCHER WOULD SAY, "GO  
9 FOR IT, IT'S FINE." NO HESITATION, NO QUESTION. "FINE. IF  
10 THEY NEED IT AND IT'S GOOD FOR THEM, GO FOR IT." SHE TOLD YOU  
11 THAT HE WASN'T STINGY WITH HIS MONEY THAT WAY.

12 AND ALL THE EVIDENCE SHOWS HE WASN'T OBSESSED WITH THE  
13 MONEY. IN FACT, STACY KINSEL'S CALCULATIONS THAT YOU SAW JUST  
14 YESTERDAY, THEY SHOWED YOU THAT HE WAS LOSING MONEY IN HIS  
15 PHYSICAL THERAPY PRACTICE FROM THE BEGINNING. HE NEVER  
16 ANTICIPATED HE WOULD BE MAKING MONEY IN THE FIRST PLACE. SO  
17 FROM 2009 TO 2014, DR. BELCHER'S THERAPY CLINIC SEEMS LIKE IT  
18 LOST MONEY EVERY YEAR.

19 AND MS. KINSEL EVEN TOLD YOU, YEAH, SHE DIDN'T HAVE ALL  
20 THE DATA, BUT SHE OVERESTIMATED HIS PROFITS BECAUSE SHE DIDN'T  
21 TAKE INTO ACCOUNT THE MONEY HE HAD TO PAY ALL THE MASSAGE  
22 THERAPISTS, AND SHE DIDN'T HAVE ALL THE RECEIPTS FOR HOW MUCH,  
23 YOU KNOW, HE MIGHT HAVE PAID IN SUPPLIES AND EQUIPMENT AND  
24 UTILITIES. HE DIDN'T HAVE THAT. SO THAT'S NOT EVEN FACTORED  
25 IN.



1           NOW, THE GOVERNMENT HAS SAID YOU CAN STILL BE A BAD CROOK  
2           AND BE A CROOK, SAYING, YEAH, YOU CAN BE A BAD FRAUDSTER,  
3           ESSENTIALLY.

4           WE AGREE.

5           BUT THAT'S NOT WHAT'S HAPPENING HERE. DR. BELCHER, FOR  
6           SIX STRAIGHT YEARS, LOST MONEY. HE'S NOT STUPID. IF HE WAS IN  
7           IT FOR THE MONEY AND TRYING TO COMMIT FRAUD, AT SOME POINT I  
8           THINK THE SMART CALL IS TO CUT YOUR LOSSES.

9           BUT THIS HAPPENED FOR SIX YEARS. IT'S NOT LIKE HE TRIED  
10          ONCE AND FIGURED, "OH, THAT FRAUD SCHEME DIDN'T WORK. I'M  
11          OUT." YEAH, THAT WOULD LOOK A LITTLE SUSPICIOUS MAYBE.

12          BUT HE JUST KEPT DOING IT FOR SIX FULL YEARS.

13          AND THE PEOPLE THAT WORKED AROUND HIM, LIKE ABIGAIL, TELL  
14          YOU HE WASN'T LIKE THAT.

15          THEY HAVE NO PROOF OF WHAT HIS INTENTIONS WERE. DOES THE  
16          GOVERNMENT KNOW HIM BETTER THAN MS. CABRAL? NO. AND SHE'S  
17          THEIR WITNESS. WE DIDN'T EVEN CALL HER TO THE STAND.

18          AND CO-PAYS. THEY SAY, "WELL, HE'S NOT CHARGING HIS  
19          CO-PAYS. THAT'S SUSPICIOUS. HE'S COMMITTING FRAUD AGAIN."

20          BUT THESE CO-PAYS FOR THERAPY, THEY'RE NOT HUNDREDS AND  
21          THOUSANDS OF DOLLARS. HE DIDN'T WANT TO SPEND THE TIME AND  
22          ENERGY AND MONEY TO GET STAFF TO, YOU KNOW, CREATE BILLS, SEND  
23          THEM OUT, YOU KNOW, SO HE COULD GET \$10 OR \$20, SOME SMALL  
24          AMOUNT. IT'S JUST NOT -- GIVEN HIS EXPENSES, IT'S JUST NOT  
25          WORTH IT AND HE JUST DIDN'T CARE ABOUT \$10 HERE AND THERE.

1           YEAH, IF THE CO-PAYS WERE A THOUSAND -- HE'S NOT GREEDY,  
2           BUT, YEAH, IF HE HAS A RIGHT TO THE MONEY, I'M SURE HE WOULD  
3           HAVE SENT THE BILL LIKE HE DOES ON THE SURGICAL SIDE.

4           THE GOVERNMENT TOLD YOU IN THEIR OPENING THAT FRAUD IS ALL  
5           ABOUT THE MONEY, AND WE AGREE, AND IT'S VERY CLEAR THAT THIS  
6           THERAPY PRACTICE WAS NOT ALL ABOUT THE MONEY.

7           I'M NOT GOING TO BRING IT BACK UP, BUT YOU'VE SEEN  
8           MS. KAKKAR, SHE GOT MULTIPLE THERAPY SESSIONS AND I THINK IT  
9           WAS A TOTAL OF, LIKE, 40 SOMETHING DOLLARS THAT GOT PAID. SHE  
10          GOT A BUNCH OF FREE SESSIONS. HE DIDN'T SEND HER A BILL LIKE,  
11          "HEY, YOU NEED TO PAY UP." PROBABLY BECAUSE HE WASN'T ON TOP  
12          OF ALL THE BILLING AND THE SCHEDULING AND ALL THAT.

13          BUT, YEAH, IF HE WAS REALLY AFTER THE MONEY, HE WOULD MAKE  
14          DAMN SURE THAT HE COLLECTED EVERY SINGLE TREATMENT AND HE WOULD  
15          TRY TO INCREASE THE VOLUME IN HIS THERAPY CLINIC LIKE EVERYBODY  
16          ELSE DOES. THAT'S WHAT HE WOULD DO.

17          NOW, WHEN IT COMES TO RENDERING YOUR VERDICT, YOU WILL SEE  
18          THAT DR. BELCHER HAS BEEN CHARGED SPECIFICALLY WITH THREE  
19          PATIENTS AND THE INSURANCE COMPANIES THAT COVERED THEM.

20          NOW, MASTANEH HABIBI, INSURED BY CIGNA, MICHAEL KELLEY AND  
21          ANTHONY BONTE, WHO WERE INSURED BY BLUE SHIELD OF CALIFORNIA,  
22          AND THOSE ARE THE FIVE PEOPLE, OR THE FIVE -- I GUESS TWO  
23          ENTITIES AND THREE PEOPLE THAT YOU'RE GOING TO HAVE TO FIGURE  
24          OUT WHETHER OR NOT HE TRIED TO ROB THEM.

25          AND THE GOVERNMENT'S CLAIMING THAT THESE ENTITIES AND

1 PEOPLE ARE HIS VICTIMS. THEY TOLD YOU THE FIRST WEEK OF TRIAL  
2 THAT YOU WOULD HEAR FROM HIS VICTIMS, NOT ONLY THE INSURANCE  
3 COMPANIES, BUT THE PATIENTS. AND YOU HEARD FROM EVERYONE, ALL  
4 THE ALLEGED VICTIMS.

5 MASTANEH HABIBI, SHE TESTIFIED, THIS VICTIM TESTIFIED THAT  
6 DR. BELCHER'S AN AMAZING PHYSICIAN. SHE GOT PHYSICAL AND  
7 MASSAGE THERAPY SESSIONS BECAUSE OF HER CHRONIC PAIN IN HER  
8 NECK, KNEE, SHOULDER, AND BACK. SHE HAD HAD SOME BAD SURGERY  
9 FROM A DIFFERENT DOCTOR IN THE PAST ON HER KNEES.

10 SHE RAVED ABOUT ABIGAIL CABRAL AS A PHYSICAL THERAPIST AND  
11 EXPLAINED TO YOU THAT HER MASSAGE THERAPY SESSIONS WERE  
12 MEDICAL. SHE SAID THEY'RE NOT LIKE GOING TO A SPA. SHE SAID  
13 THE MASSAGE THERAPIST, PHYSICAL THERAPIST, AND DR. BELCHER ALL  
14 COMMUNICATED ABOUT HER REHAB AND WHAT NEEDED TO BE DONE.

15 WHEN ASKED ABOUT THE FREQUENCY OF HER THERAPY SESSIONS,  
16 SHE SAID SHE GOT THREE OR FOUR SESSIONS A WEEK ON AVERAGE, AND  
17 SOMETIMES EVEN FIVE WHEN SHE WAS IN A LOT OF PAIN. SHE'S EVEN  
18 BEEN HOSPITALIZED FOR HER PAIN.

19 THE GOVERNMENT TOOK HER THROUGH PAGE AFTER PAGE OF CLAIMS  
20 THAT DR. BELCHER SUBMITTED AND SHE TOLD YOU HERSELF, THERE'S  
21 NOTHING SUSPICIOUS ABOUT HIS BILLING.

22 AND GRANTED, ALL THESE PATIENTS, IT'S HARD TO REMEMBER  
23 WHAT DATE YOU WENT TO THE DOCTOR'S OFFICE IN 2012 OR '10 OR  
24 '13.

25 BUT OVERALL, SHE SAID THAT LOOKS RIGHT. SHE DIDN'T HAVE A

1 PROBLEM.

2 SHE ALSO EXPLAINED THAT GIVEN ALL THE SCHEDULING PROBLEMS  
3 AT THE CLINIC, SHE WOULDN'T BE SURPRISED IF, OF COURSE, THERE'S  
4 BILLING MISTAKES, TOO.

5 SO I ALSO TOOK HER THROUGH -- I SHOWED HER SESSION AFTER  
6 SESSION WHERE IT APPEARED SHE DID GET TREATMENT, BUT  
7 DR. BELCHER DIDN'T BILL FOR IT ACCORDING TO THE RECORDS.

8 SO THE MISTAKES GO BOTH WAYS. IT'S NOT LIKE ALL HIS  
9 MISTAKES ARE JUST TRYING TO GET MONEY THAT WAS SOMEHOW  
10 UNDESERVED. THERE WERE MISTAKES BOTH WAYS.

11 NOW, MS. HABIBI KNOWS THAT DR. BELCHER IS ON TRIAL FOR  
12 ALLEGEDLY DEFRAUDING HER. YET, SHE STILL GOES TO SEE HIM. I  
13 WANT YOU TO THINK ABOUT THIS FOR A MOMENT. IF I FOUND OUT MY  
14 DOCTOR ROBBED ME, I MEAN, I PROBABLY CALL HIM A THIEF AND, YOU  
15 KNOW, IMMEDIATELY FIND ANOTHER DOCTOR AND, I DON'T KNOW, FILE A  
16 LAWSUIT OR WHO KNOWS. SOMETHING.

17 I WOULDN'T COME IN HERE AND TESTIFY AND SPEAK HIGHLY OF  
18 HIM AND CONTINUE TO SEE HIM AS MY DOCTOR.

19 SHE'S DOING THAT BECAUSE SHE'S BASICALLY TELLING YOU SHE'S  
20 NOT A VICTIM. SHE MAY NOT HAVE USED THOSE WORDS, BUT I THINK  
21 IT'S KIND OF OBVIOUS.

22 AND, IN FACT, MS. HABIBI DID TELL YOU SHE STOPPED SEEING  
23 DR. GANESH AS A PRIMARY CARE DOCTOR. BUT TO THIS DAY, SHE  
24 STILL SEES DR. BELCHER. AND YOU KNOW WHAT? HER INSURANCE  
25 STILL PAYS FOR IT. THEY ALL KNOW WHAT'S GOING ON. THEY ALL

1 KNOW WHAT HE'S BEEN CHARGED WITH AND WHY HE'S ON TRIAL.

2 NOW, HER INSURANCE COMPANY, CIGNA, IS ALSO NOT A VICTIM OF  
3 DR. BELCHER. CIGNA TESTIFIED THEY'VE NEVER INVESTIGATED  
4 DR. BELCHER.

5 MIND YOU, THE GOVERNMENT INSISTS ON GROUPING DR. BELCHER  
6 AND GANESH TOGETHER AS IF THEY'RE ONE AND THE SAME. THEY'VE  
7 BEEN DOING THAT SINCE THE BEGINNING.

8 BUT CIGNA TOLD YOU THEY DIDN'T INVESTIGATE HIM. BUT THEY  
9 INVESTIGATED HER, AND THEY FOUND UPCODING.

10 NOW, THE GOVERNMENT IS CLAIMING THAT CIGNA IS  
11 DR. BELCHER'S VICTIM. YET, HE'S STILL A CONTRACTED PROVIDER  
12 FOR CIGNA. THEY CONTINUE TO PAY HIS CLAIMS TO THIS DAY. AND  
13 WE SHOWED YOU EOB'S PROVING IT. IT'S IN EVIDENCE.

14 NOW, MICHAEL KELLEY IS ANOTHER PATIENT THE GOVERNMENT  
15 CLAIMS IS VICTIMIZED BY DR. BELCHER. MR. KELLEY HAS BEEN A  
16 PATIENT OF DR. BELCHER'S FOR 17 YEARS. HE'S RECEIVED SEVERAL  
17 SURGERIES FROM HIM, ALL SUCCESSFUL. AND IT'S NOT SURPRISING  
18 THAT HE DESCRIBES DR. BELCHER AS NOT ONLY AN EXCELLENT SURGEON,  
19 BUT PROFESSIONAL, ENCOURAGING, UP FRONT. HE'S KNOWN HIM FOR 17  
20 YEARS. I THINK HE'D HAVE AN IDEA.

21 HE TESTIFIED THAT HE GOT GREAT MASSAGE THERAPY AND  
22 PHYSICAL THERAPY. HE DIDN'T HAVE COMPLAINTS. THERE WAS NO  
23 MENTION OF A SPA OR SOME RUB DOWN. HIS THERAPY SESSIONS WERE  
24 MEDICALLY NECESSARY AND A PART OF HIS COMPREHENSIVE REHAB PLAN  
25 THAT INVOLVED THE TEAMWORK OF ABIGAIL CABRAL, A MASSAGE

1 THERAPIST, AND DR. BELCHER. THERE'S NO EVIDENCE TO INDICATE  
2 OTHERWISE.

3 IF YOU REMEMBER, MR. DELAHUNTY, NUMEROUS TIMES, GAVE YOU A  
4 HYPOTHETICAL AND SAID -- OR GAVE A WITNESS A HYPOTHETICAL AND  
5 SAID, "IMAGINE THIS: YOU'RE IN A MASSAGE THERAPY ROOM AND, YOU  
6 KNOW, YOUR MASSAGE THERAPIST HASN'T CONSULTED WITH,  
7 ESSENTIALLY, ANYONE." RIGHT?

8 THAT'S NOT WHAT'S HAPPENING. WHO SAID THAT'S WHAT'S  
9 HAPPENING? DR. BELCHER DIDN'T SAY THAT. HIS PATIENTS AREN'T  
10 SAYING THAT. THEY SAID THAT THEIR MASSAGE THERAPISTS KNOW  
11 EXACTLY WHAT TO DO, WHAT PARTS OF THEIR BODY ARE AT ISSUE,  
12 WHERE THE PAIN IS AT, WHAT NEEDS TO BE DONE. THEY KNOW.

13 NOW, MR. KELLEY ALSO TESTIFIED TO RECEIVING APPROXIMATELY  
14 THREE TO FOUR SESSIONS A WEEK OF THERAPY, AND WHEN THE  
15 GOVERNMENT SHOWED HIM PAGE AFTER PAGE OF CLAIMS FOR  
16 DR. BELCHER, HE, JUST LIKE MS. HABIBI, SAID, "I DON'T SEE  
17 ANYTHING SUSPICIOUS." IN FACT, IN A SEVEN YEAR PERIOD FROM  
18 2008 TO '14, THERE WAS ONLY ONE WEEKEND BILL, JUST ONE.

19 MR. KELLEY DIDN'T THINK IT WAS FRAUD. I ASKED HIM. IN  
20 FACT, I SHOWED HIM MANY SESSIONS, JUST LIKE MS. HABIBI, WHERE  
21 HE GOT THERAPY, OR ACCORDING TO THE LOG, IT LOOKS LIKE HE GOT  
22 THERAPY, BUT DR. BELCHER FAILED TO BILL THE INSURANCE COMPANY.

23 MR. KELLEY WASN'T SURPRISED. MISTAKES HAPPEN.

24 AND DESPITE THE GOVERNMENT'S ACCUSATIONS, MR. KELLEY ALSO  
25 INSISTS ON SEEING DR. BELCHER AS HIS BONE DOCTOR. NOW, HE JUST

1 WON'T CHANGE PHYSICIANS. HE DOESN'T WANT TO.

2 HE'S ESSENTIALLY TOLD YOU, LIKE HABIBI, THAT HE'S NOT A  
3 VICTIM. IF YOU TAKE HIS DOCTOR AWAY, I MEAN, YEAH, MAYBE THEN  
4 HE WOULD BE A VICTIM, HIS DOCTOR OF 17 YEARS THAT HE TRUSTS.

5 AND, AGAIN, IN CONTRAST, EVEN THOUGH DR. GANESH HAD BEEN  
6 HIS PRIMARY CARE PHYSICIAN, WHEN HE HEARD ABOUT THIS  
7 INVESTIGATION CASE, HE STOPPED SEEING HER, JUST LIKE  
8 MS. HABIBI.

9 NOW, THEN THERE'S ANTHONY BONTE, A PATIENT OF DR. GANESH,  
10 NOT DR. BELCHER. HE HAD THREE OPEN HEART SURGERIES, HAD SOME  
11 VASCULAR NEUROSIS ISSUE IN HIS HIP THAT DR. BELCHER CONSULTED  
12 ON, AND HE, TOO, SPOKE HIGHLY OF P.T., PHYSICAL THERAPY, AND  
13 MASSAGE THERAPY. HE EVEN EXPLAINED THAT HE FOUND THE MASSAGE  
14 THERAPY PARTICULARLY HELPFUL IN BREAKING UP HIS SCAR TISSUE  
15 BECAUSE HE'S HAD THREE OPEN HEART SURGERIES.

16 NOW, THAT'S NOT SOME MASSAGE THERAPY AT A SPA. THAT'S  
17 MEDICALLY NECESSARY, LEGIT MASSAGE THERAPY THAT THE PATIENT IS  
18 RECEIVING AND BENEFITTING FROM.

19 THE COURT: I'M SORRY, MS. CHUNG. I'M REALLY SORRY  
20 TO INTERRUPT YOU. WE'VE BEEN GOING OVER AN HOUR AND I  
21 UNDERSTAND WE NEED TO TAKE A FIVE MINUTE BREAK. LET'S TAKE A  
22 BATHROOM BREAK RIGHT NOW.

23 DO NOT RESEARCH OR DISCUSS THE CASE. THANK YOU FOR YOUR  
24 PATIENCE AND YOUR SERVICE.

25 (JURY OUT AT 2:59 P.M.)

1 THE COURT: I'M REALLY SORRY TO INTERRUPT YOU, BUT I  
2 GOT A NOTE THAT MR. GUTIERREZ HAD TO GO TO THE BATHROOM.

3 MS. CHUNG: THAT'S FINE. I DON'T WANT HIM --

4 THE COURT: OKAY. LET'S TAKE A FIVE MINUTE BREAK.  
5 THANK YOU.

6 (RECESS FROM 3:00 P.M. UNTIL 3:05 P.M.)

7 (JURY IN AT 3:05 P.M.)

8 THE COURT: OKAY. WELCOME BACK. PLEASE TAKE A SEAT.  
9 PLEASE CONTINUE, MS. CHUNG.

10 MS. CHUNG: SO WHEN WE LEFT OFF, WE WERE TALKING  
11 ABOUT ANTHONY BONTE, THE PATIENT THAT HAD THREE OPEN HEART  
12 SURGERIES.

13 NOW, THE GOVERNMENT QUESTIONED HIM AT LENGTH -- AND IT'S  
14 ALSO A COUNT, I BELIEVE, THAT DR. BELCHER IS CHARGED WITH --  
15 ABOUT A CLAIM DR. BELCHER SUBMITTED FOR MR. BONTE ON SUNDAY,  
16 JUNE 22ND, 2014.

17 NOW, THEY MADE SUCH A BIG DEAL WHEN HE WAS ON THE STAND  
18 ABOUT THIS ONE DATE, AND WHEN WE ASKED HIM, "SO HOW MANY  
19 WEEKEND DATES DID HE BILL YOU FOR?" IT TURNED OUT IT WAS ONE.  
20 THAT WAS THE ONLY ONE.

21 THAT'S NOT A PATTERN OF FRAUD. THE GOVERNMENT POINTED TO  
22 THAT ONE WEEKEND CLAIM AND WE POINTED TO MANY THERAPY SESSIONS  
23 THAT HE GOT THAT HE DIDN'T BILL FOR, PROBABLY A MISTAKE.

24 NOW, WHAT'S IMPORTANT IS THAT MR. BONTE TOOK THE STAND,  
25 HAD THE OPPORTUNITY TO SAY, "I'VE BEEN VICTIMIZED BY THESE



1 DOCTORS. I'VE BEEN VICTIMIZED BY DR. BELCHER." HE DIDN'T.

2 NOW LET'S TURN TO MR. BONTE AND MR. KELLEY'S INSURANCE  
3 COMPANIES, INSURANCE COMPANY, BLUE SHIELD OF CALIFORNIA.

4 THEIR REPRESENTATIVE ALSO TOLD YOU THEY'RE NOT  
5 INVESTIGATING DR. BELCHER, AND LIKE ALL THE OTHER INSURANCE  
6 COMPANIES THAT TESTIFIED, THEY DIDN'T SEND HIM A PHYSICIAN  
7 EDUCATION LETTER, THEY DIDN'T CALL HIM AND SAY "THERE'S  
8 SOMETHING WRONG WITH YOUR BILLS," THEY DIDN'T TELL HIM, "YOU  
9 NEED -- YOUR CODES LOOKS OFF." THEY NEVER TERMINATED HIM ON  
10 SUSPICION OF FRAUD.

11 IN FACT, THEY'VE CONTINUED, ALL OF THEM, TO PAY HIS CLAIMS  
12 TO THIS DAY. AND THEY KNOW HE'S ON TRIAL FOR HEALTH CARE  
13 FRAUD. THE INSURANCE COMPANIES AREN'T STUPID. THEY KNOW THAT.  
14 THEY SENT PEOPLE TO TESTIFY.

15 NOW, LET'S THINK ABOUT THE SIGNIFICANCE OF THE WITNESSES  
16 THAT THE GOVERNMENT HAS BEEN REFERRING TO AS DR. BELCHER'S  
17 VICTIMS. FOR THE MOST PART, HIS PATIENTS SPEAK GLOWINGLY OF  
18 HIM. THEY LOVE THE PHYSICAL AND MASSAGE THERAPY THEY GOT.

19 AND THE INSURANCE COMPANIES, THEY EITHER DON'T HAVE AN  
20 INVESTIGATION ON HIM, OR INVESTIGATED AND CLOSED THEIR  
21 INVESTIGATION WITH NO FINDING OF IMPROPRIETY. I THINK ANTHEM,  
22 THE ONE THAT ACTUALLY REPORTED DR. GANESH TO THE FBI THAT  
23 STARTED THIS CASE, INVESTIGATED HIM, FOUND NO IMPROPRIETY,  
24 DECIDED THEY OWED HIM ZERO DOLLARS, AND CLOSED THE CASE.

25 LIKE I SAID, THE INSURANCE COMPANIES ARE NOT STUPID. AND,

1 OF COURSE, THEY'RE NOT REQUIRED TO CATCH EVERY SINGLE THING.  
2 THAT'S IMPOSSIBLE.

3 BUT THIS CASE, THIS INVESTIGATION HAS BEEN PENDING SINCE  
4 2014. IT IS NOW 2017.

5 LIKE I SAID, ALL OF THEM ARE STILL PAYING HIM. HE'S A  
6 CONTRACTED PROVIDER WITH ALL OF THEM. IN FACT, EVEN THE  
7 FEDERAL GOVERNMENT, MEDICARE, IS STILL PAYING HIM.

8 NOW, DR. BELCHER IS CHARGED WITH FRAUD. AND WHEN SOMEONE  
9 LIKE BERNIE MADOFF GETS CHARGED WITH FRAUD, KNOWING WHAT THEY  
10 KNOW NOW, THE VICTIMS OF BERNIE MADOFF, WOULD THEY HAVE  
11 CONTINUED TO INVEST IN HIS FUND? I THINK WE CAN ALL SAFELY  
12 ASSUME THAT THEY WOULDN'T.

13 SO WHY ARE ALL THESE ALLEGED VICTIMS STILL PAYING HIM?  
14 SPEAKING HIGHLY OF HIM? INSISTING ON SEEING HIM WHEN THERE'S  
15 OTHER DOCTORS THERE, TOO? AND A LOT HAVE SAID THEY DON'T FIND  
16 HIS BILLING SUSPICIOUS AT ALL.

17 I THINK, AS TO DR. BELCHER, THERE'S NO VICTIMS HERE.  
18 THERE'S NO PATIENT THAT TOOK THE STAND AND INSISTED THAT THEY  
19 WERE VICTIMIZED BY DR. BELCHER. THERE'S NO INSURANCE COMPANY  
20 THAT TOOK THE STAND AND SAID HE OWES THEM MONEY.

21 BUT THAT'S NOT EVEN THE ONLY PROBLEM WITH THE GOVERNMENT'S  
22 CASE. DURING THEIR INVESTIGATION, THE GOVERNMENT KNEW ABOUT  
23 THE EXISTENCE OF A CALENDAR AND A BILLING SOFTWARE CALLED  
24 LYTEC. IN FACT, ABIGAIL CABRAL TESTIFIED THAT DR. BELCHER USED  
25 LYTEC TO SUBMIT CLAIMS. DR. BELCHER HIMSELF EXPLAINED THAT HE

1 RELIED ON THE INFORMATION IN LYTEC TO FIGURE OUT WHICH PATIENTS  
2 TO BILL ON WHAT DATES. AND BEFORE LYTEC, HE RELIED ON A LIST  
3 OF PATIENTS AND DATES PROVIDED BY HIS MEDICAL ASSISTANTS WITH  
4 KIND OF THE UPDATES ON THE PATIENTS THAT WERE SEEN THAT WEEK.

5 BUT NOBODY HAS EVER SAID, INCLUDING MS. CABRAL AND  
6 DR. BELCHER, THAT HE LOOKS AT THE GOOGLE CALENDAR TO BILL.

7 HOWEVER, THROUGHOUT THIS ENTIRE TRIAL, THE GOVERNMENT'S  
8 CASE IS BUILT UPON SEEING PAGE AFTER PAGE OF GOOGLE CALENDARS.  
9 YOU HAVEN'T EVEN SEEN ONE PAGE OF THE LYTEC CALENDAR FROM THE  
10 GOVERNMENT. DON'T YOU THINK THAT'S WEIRD?

11 THE GOVERNMENT HAS TALKED ABOUT STRANGE BEHAVIOR FROM THE  
12 DOCTORS TO CLAIM THAT THEY'RE GUILTY. YET, THEIR BEHAVIOR IS  
13 JUST AS STRANGE AND ARGUABLY INEXCUSABLE. THEY DRAGGED THIS  
14 GOOD DOCTOR'S NAME BASICALLY THROUGH THE MUD, CALLING HIM A  
15 CRIMINAL IN FRONT OF HIS PATIENTS AND HIS STAFF AND HIS  
16 COMMUNITY. AND BEFORE CHARGING HIM, ACCUSING HIM OF FEDERAL  
17 CRIMES, THEY DIDN'T EVEN BOTHER TO SUBPOENA LYTEC AND GET THE  
18 CALENDAR DATA? DID THEY EVEN BOTHER ASKING HIM FOR IT? IT'S  
19 NOT LIKE THEY ASKED AND HE SAID NO.

20 NOW, KIND OF LET ME TAKE YOU THROUGH A HYPOTHETICAL TO  
21 HELP YOU FULLY UNDERSTAND MY POINT AS TO WHY THIS LYTEC ISSUE  
22 IS IMPORTANT. SO LET'S SAY -- I'M GOING TO TRY TO MAKE IT  
23 REALLY SIMPLE. THIS IS A HYPOTHETICAL. THESE AREN'T REAL  
24 DATES. THIS IS MICHAEL KELLEY, I'M USING HIS NAME.

25 BUT THIS IS DR. BELCHER'S BILL, LET'S SAY, AND FOR PATIENT

1 MICHAEL KELLEY ON MAY 2ND, 2013, HE SUBMITTED A BILL SAYING  
2 THAT'S WHEN HE WAS ALLEGEDLY SEEN.

3 MR. HICKEY: CAN YOU RESET IT?

4 THE CLERK: YOU WANT ME TO RESET IT?

5 (PAUSE IN PROCEEDINGS.)

6 MS. CHUNG: SORRY.

7 THE CLERK: IT'S NOT CONNECTING?

8 MS. CHUNG: SOMETHING JUST FLASHED.

9 THE CLERK: I SWITCHED SIDES JUST TO SEE IF IT WOULD  
10 SEARCH.

11 MR. HOROWITZ: JUST USE THE PAPER COPY.

12 THE CLERK: IS IT PLUGGED IN?

13 MR. HICKEY: YEAH, IT'S PLUGGED IN.

14 THE CLERK: IT'S COMING UP. I THINK IT'S OKAY.

15 THE COURT: CAN WE USE THE ELMO? OR THAT'S NOT  
16 WORKING, EITHER?

17 THE CLERK: THE ELMO DOES WORK, YOUR HONOR, BUT I  
18 THINK IT'S COMING UP. HE JUST WAS TRYING TO CONNECT IT, THAT'S  
19 ALL.

20 MS. CHUNG: THE PAGE AFTER.

21 I APOLOGIZE.

22 SO WE HAVE THIS BILL HYPOTHETICALLY THAT DR. BELCHER  
23 SUBMITTED FOR MICHAEL KELLEY ON MAY 2ND, 2013.

24 AND THE GOVERNMENT IS SAYING, "WELL, LOOK AT THE GOOGLE  
25 CALENDAR. MICHAEL KELLEY IS NOT ON THIS SCHEDULE. IT MUST BE

1 FRAUD."

2 SOMETIMES THEY ALSO SHOW YOU A SIGN-IN SHEET, HE DIDN'T  
3 SIGN IN.

4 BUT WAIT. WE KNOW FROM ABIGAIL CABRAL AND DR. BELCHER  
5 THAT THERE IS A LYTEC CALENDAR AND THAT'S THE CALENDAR THAT HE  
6 USES TO BILL, TO FIGURE OUT WHICH CLAIMS NEED TO BE SUBMITTED.

7 WHAT IF -- I'M NOT SAYING THAT IT IS -- BUT WHAT IF THE  
8 LYTEC CALENDAR FOR MICHAEL KELLEY WAS SCHEDULED FOR MAY 2ND,  
9 2013? IF DR. BELCHER'S BILL DATE HERE AND THAT LYTEC DATE  
10 MATCHED UP, IT WOULD PROVE THAT HE HAD A GOOD FAITH REASON FOR  
11 WHY HE SUBMITTED THE BILLS THE WAY HE DID AND THAT WOULDN'T BE  
12 FRAUD.

13 BUT THE POINT IS, WE'LL JUST NEVER KNOW. WE HAVEN'T SEEN  
14 IT. I DON'T KNOW IF IT WOULD HELP US. I DON'T KNOW IF IT  
15 WOULDN'T. THE POINT IS, WE JUST HAVEN'T SEEN IT.

16 AND THAT'S REASONABLE DOUBT, JUST THAT ALONE.

17 NOW, INSTEAD THE GOVERNMENT, INSTEAD OF ACTUALLY USING THE  
18 CALENDAR THAT DR. BELCHER IS LOOKING AT TO BILL, THEY DECIDED  
19 TO SHOW YOU THE GOOGLE CALENDAR WHICH, AS WE'VE HEARD MANY  
20 WITNESSES SAY, THERE WERE SCHEDULING PROBLEMS. IT IS RIDDLED  
21 WITH MISTAKES. MS. HABIBI TOLD YOU THERE WERE LOTS AND LOTS OF  
22 SCHEDULING PROBLEMS AND CALENDARING PROBLEMS AT THE OFFICE. IF  
23 THE GOOGLE CALENDAR WAS SO EXTREMELY RELIABLE AS MR. DELAHUNTY  
24 SAID, WHY ARE THERE ALL THESE PROBLEMS?

25 IN FACT, PATIENT ELIZABETH MICHAEL, SHE GOT SO FRUSTRATED

1 THAT SHE DECIDED TO SKIP THAT PROCESS AND GO DIRECTLY TO HER  
2 THERAPIST AND CALL HER UP AND TRY TO SCHEDULE IT. IT DIDN'T  
3 SOUND LIKE THAT THE GOOGLE CALENDAR WAS THAT EXTREMELY  
4 RELIABLE.

5 MR. DELAHUNTY IS WRONG.

6 AND ABIGAIL CABRAL DID NOT TELL YOU THAT THE GOOGLE  
7 CALENDAR WAS EXTREMELY RELIABLE. SHE SAID SHE TRIED HER BEST,  
8 BUT THERE WILL BE MISTAKES AND THAT SHE CONTINUED TO TRY HER  
9 BEST.

10 AND, IN FACT, LET ME SHOW YOU, WHEN ABIGAIL CABRAL WAS  
11 ASKED, WAS THE CALENDARING AND SCHEDULING MORE OF A PROBLEM  
12 WITH THIS PRACTICE THAN IT HAD BEEN ANYWHERE ELSE IN THE 19  
13 YEARS THAT SHE'S BEEN WORKING? IT'S RIGHT THERE.

14 SHE SAID, YEAH, SCHEDULING AND CALENDARING PROBLEMS WERE  
15 THAT BAD.

16 THAT'S BASICALLY THE OPPOSITE OF SAYING THE GOOGLE  
17 CALENDAR IS EXTREMELY RELIABLE, WHICH THE GOVERNMENT IS  
18 CLAIMING.

19 IN FACT, LET'S TAKE A MOMENT TO READ HER DESCRIPTION OF  
20 KIND OF ALL THE CALENDAR PROBLEMS AND HOW, IN JUNE 2013, SHE  
21 EVEN HAD TO WRITE A MEMO ABOUT IT.

22 OKAY. IT SAYS, "AND YOU WROTE THIS MEMO IN JUNE OF 2013;  
23 CORRECT?"

24 "2013.

25 "AND AT THAT TIME, YOU WERE THE SOLE PHYSICAL THERAPIST

1 AT DR. BELCHER'S PHYSICAL THERAPY PRACTICE?

2 "YES.

3 "AND IN THIS MEMO, YOU SET FORTH THE POLICIES AND  
4 PROCEDURES FOR SCHEDULING FUTURE PHYSICAL THERAPY VISITS;  
5 CORRECT?

6 "YES.

7 "AND YOU DID IT TO RESOLVE ALL OF THE ONGOING PROBLEMS AND  
8 CONFUSION WITH SCHEDULING PATIENT APPOINTMENTS; CORRECT?

9 "YES, BECAUSE THERE'S MANY PEOPLE IN THE FRONT DESK AND I  
10 FEEL LIKE TOO MANY PEOPLE ARE CHANGING APPOINTMENTS, YOU KNOW,  
11 HANDLING SCHEDULES.

12 "SO I HAD PUT HERE TO MAKE IT THAT JACKLYN IS THE MAIN  
13 PERSON -- YEAH, TO MAKE JACKLYN THE MAIN PERSON WHO WILL DO ANY  
14 CHANGES IN THE CALENDAR.

15 "RIGHT. BECAUSE PRIOR TO THAT, ALL OF THE VARIOUS FRONT  
16 DESK STAFF WERE CHANGING THINGS IN THE CALENDAR; CORRECT?

17 "CORRECT.

18 "SO SOMEBODY MIGHT -- THERE WASN'T ONE SOLE PERSON WHO WAS  
19 SUPPOSED TO BE RESPONSIBLE FOR KEEPING THE CALENDAR; CORRECT?

20 "BEFORE, YES.

21 "AND AS A RESULT OF THAT, SOMETIMES SCHEDULES WOULD --  
22 APPOINTMENTS WOULD GET DOUBLE BOOKED OR LEFT OFF ENTIRELY?

23 "CORRECT.

24 "BECAUSE SOMEBODY WOULD GET A CALL AND EXPECT SOMEBODY  
25 ELSE HAD DONE IT?

1 "CORRECT.

2 "THE RIGHT HAND DIDN'T KNOW WHAT THE LEFT HAND WAS DOING?

3 "CORRECT.

4 "AND THIS WAS AN ONGOING PROBLEM, AT LEAST FROM THE TIME  
5 YOU ARRIVED IN 2011, UNTIL THE TIME YOU WROTE THIS MEMO IN JUNE  
6 OF 2013; CORRECT?

7 CORRECT."

8 AND SHE MENTIONS JACKLYN DANIELS, THAT SHE'S THE MEDICAL  
9 ASSISTANT THAT KIND OF HANDLED -- THAT SHE THOUGHT HANDLED ALL  
10 THE CALENDARING. SHE WOULD KNOW WHETHER THERE WERE -- HOW  
11 RELIABLE THE GOOGLE CALENDAR IS OR HOW THINGS WORKED. THE  
12 BURDEN'S ON THE GOVERNMENT. WHY HASN'T SHE TESTIFIED? YOU  
13 HAVEN'T HEARD FROM HER AT ALL.

14 NOW, IF THE GOVERNMENT'S CLAIM IS TRULY -- OR IF WHAT  
15 THEY'RE CLAIMING IS ACTUALLY TRUE, THAT THE GOOGLE CALENDAR IS  
16 EXTREMELY RELIABLE, THEN I'M PRETTY SURE THEY WOULD HAVE PUT  
17 MS. DANIELS UP THERE TO SAY EXACTLY THAT.

18 THEY DIDN'T BECAUSE THE GOOGLE CALENDAR IS NOT RELIABLE.

19 AND THE SIGN-IN SHEETS. THE SIGN-IN SHEETS AND THE  
20 CALENDAR DON'T EVEN ALWAYS MATCH UP A HUNDRED PERCENT. WE HAVE  
21 EVEN SHOWN YOU SIGN-IN SHEETS THAT DON'T HAVE DATES ON THEM.

22 AND, GRANTED, THE GOVERNMENT CAN COME BACK AND SAY, WELL,  
23 THAT'S ONLY A FEW OF THEM.

24 BUT DR. BELCHER HAS BEEN CHARGED WITH FEDERAL CRIMES.

25 THIS -- I THINK THAT INFORMATION IS RELEVANT FOR YOU TO DECIDE



1 WHETHER THEY'VE PROVEN THEIR CASE BEYOND ANY REASONABLE  
2 DOUBT -- OR LET ME REPHRASE THAT -- BEYOND A REASONABLE DOUBT.

3 NOW, YOU MAY WONDER, WELL, WHY DIDN'T DR. BELCHER JUST  
4 PRODUCE THE LYTEC CALENDAR? WHY DIDN'T HE DO THAT THEN?

5 HE DIDN'T KNOW EXACTLY WHAT DOCUMENTS THE GOVERNMENT  
6 INTENDED TO USE TO BUILD THEIR ENTIRE CASE IN CHIEF FROM THE  
7 VERY BEGINNING. OF COURSE HE FOUND OUT SOMETIME BEFORE TRIAL,  
8 YES.

9 BUT THE BURDEN IS NOT ON HIM. HE'S NOT SUPPOSED TO  
10 INVESTIGATE HIMSELF. IT'S THEIR RESPONSIBILITY. THEY COULD  
11 HAVE ISSUED SUBPOENAS. THEY COULD HAVE ASKED HIM FOR IT. THEY  
12 STARTED INVESTIGATING IN 2014 AND HE WAS INDICTED IN 2016, AND  
13 THERE WAS ANOTHER INDICTMENT IN 2017. AND OUR TRIAL DIDN'T  
14 START UNTIL OCTOBER OF THIS YEAR.

15 THE GOVERNMENT HAS -- FROM WHAT WE CAN SEE THROUGHOUT THIS  
16 TRIAL, THEY'VE NOT SHOWN YOU ANYTHING REGARDING LYTEC.

17 AND WHEN I SAY IT'S NOT OUR BURDEN TO PROVE HIS INNOCENCE,  
18 IT'S THEIRS, THAT MAY SOUND WEIRD AND IT MAY SOUND KIND OF  
19 EVASIVE, BUT IT'S JUST THE LAW. WE ONLY NEED TO STAND UP HERE  
20 AND SHOW YOU THAT THEY FAILED TO MEET THEIR BURDEN, THAT THERE  
21 IS REASONABLE DOUBT.

22 NOW, NOT ONLY DID THEY FAIL TO PROVIDE YOU WITH ALL THE  
23 RELEVANT YOU NEED -- ALL OF THE RELEVANT EVIDENCE YOU NEED TO  
24 MAKE YOUR DETERMINATION, BUT THEY MISLED YOU TO THINK THAT THE  
25 MESSAGE THERAPY SESSIONS HE OFFERED WERE THE SAME AS MESSAGES

1 YOU WOULD GET AT A SPA LIKE BURKE WILLIAMS. NOTHING IS FURTHER  
2 FROM THE TRUTH. PATIENTS DID NOT TESTIFY THAT MASSAGE THERAPY  
3 SESSIONS WERE SIMILAR TO THOSE THEY GOT AT A SPA. QUITE  
4 OPPOSITE.

5 IN ADDITION TO THE PATIENTS WE'VE ALREADY TOLD YOU ABOUT,  
6 THEY ALL KIND OF DESCRIBED WHAT THEIR MASSAGE THERAPY SESSIONS  
7 WERE LIKE TO YOU, AND I'M NOT GOING TO TAKE YOU THROUGH ALL OF  
8 THAT, BUT THEY HAVE FIRST-HAND KNOWLEDGE OF WHAT HAPPENED IN  
9 THOSE TREATMENT ROOMS. THE GOVERNMENT DOES NOT.

10 AND THE MASSAGE THERAPISTS WOULD KNOW, TOO. BUT WE --  
11 THERE'S NO MASSAGE THERAPIST THAT WORKED IN DR. BELCHER'S  
12 OFFICE THAT TESTIFIED. IF THE -- IF WHAT DR. BELCHER IS SAYING  
13 IS NOT TRUE AND THESE MASSAGE THERAPY SESSIONS WERE JUST LIKE A  
14 SPA TREATMENT LIKE THE GOVERNMENT ALLEGES, THEN WHY DIDN'T THEY  
15 JUST PUT A MASSAGE THERAPIST ON THE STAND TO SAY WHAT THEY DID?

16 ABIGAIL, DR. HARIRI, DR. BELCHER, THEY ALL EXPLAINED TO  
17 YOU REPEATEDLY THE VALUE OF MASSAGE THERAPY. ABIGAIL STRONGLY  
18 ENDORSED IT, ESPECIALLY IN CONJUNCTION WITH PHYSICAL THERAPY.  
19 I MEAN, SHE'S THE ONE THAT WANTED TO OFFER BOTH ON THE SAME DAY  
20 FOR PATIENTS, WHETHER IT'S FOR CONVENIENCE OR ACTUALLY HELPFUL  
21 FOR BOTH, BOTH TREATMENTS TO BE -- OR I GUESS FOR THE MASSAGE  
22 THERAPY TO OCCUR AFTER THE PHYSICAL THERAPY, FOR WHATEVER  
23 REASON, SHE THOUGHT THAT WAS GOOD FOR THE PATIENTS. SHE NEVER  
24 SAID THEY WERE PROVIDING RUB DOWNS.

25 AND DR. BELCHER TOLD YOU HE PERSONALLY VETTED THE VALUE OF

1 MASSAGE THERAPY. HE ADMITTED HE WAS INITIALLY SKEPTICAL. IN  
2 FACT, IN THE BEGINNING WHEN THE OFFICE KIND OF TRIED TO PUSH  
3 HIM TO GET MASSAGE THERAPISTS AND THEY SHOWED UP FOR THE  
4 INTERVIEWS, HE TOLD THEM, "I DON'T WANT TO BE INVOLVED."

5 BUT LATER ON, HE WITNESSED BALLET DANCERS, WHICH HE TOLD  
6 YOU ABOUT, THAT HAD REALLY SEVERE BACK SPASMS AND THEY COULDN'T  
7 EVEN WALK COMFORTABLY AND HAD A PERFORMANCE THAT SAME DAY IN  
8 THE EVENING. HE WOULD SEE THEM GET MASSAGE THERAPY AND IT WAS  
9 SO EFFECTIVE THAT THEY COULD PERFORM THAT EVENING.

10 AND HE WAS CONVINCED, AND SO HE TRIED IT OUT HIMSELF,  
11 VETTED IT, FIGURED OUT WHAT WAS HAPPENING.

12 HE WANTED TO GIVE HIS PATIENTS THE SAME AMAZING RESULTS.  
13 HE DID HIS DUE DILIGENCE.

14 AND IN ORDER TO FIGURE OUT HOW TO BILL AND WHICH CPT CODES  
15 THAT HE SHOULD USE, HE ASKED FOR GUIDANCE FROM A COLLEAGUE, AND  
16 THEN HE PERSONALLY CHECKED, PERSONALLY CHECKED THE AMERICAN  
17 MEDICAL ASSOCIATION'S CPT CODE BOOK, WHICH HAS BEEN REFERRED TO  
18 AS KIND OF THE CODE BOOK BIBLE, TO SEE WHICH CODES WOULD BEST  
19 FIT THE THERAPEUTIC PROCEDURES HIS MASSAGE THERAPISTS WERE  
20 PERFORMING.

21 AND HE DECIDED TO GENERALLY BILL A CLUSTER OF FOUR TO FIVE  
22 CODES CONSISTING OF 97001, WHICH IS THE EVALUATION; 97110,  
23 THERAPEUTIC EXERCISES WHICH, YOU KNOW, INVOLVES STRETCHING THE  
24 MUSCLES OUT TO HELP WITH FLEXIBILITY AND RANGE OF MOTION;  
25 97112, NEUROMUSCULAR RE-EDUCATION, THAT'S ONE WHERE I REMEMBER

1 ELIZABETH MICHAEL TOLD YOU, AFTER SURGERY, YOUR BRAIN AND YOUR  
2 MUSCLES HAVE A DISCONNECT, THEY NEED TO BE KIND OF RETRAINED,  
3 AND SOMETIMES PART OF THAT INVOLVES, YOU KNOW, MASSAGING THEM  
4 PHYSICALLY TO GET THEM TO KIND OF TRIGGER AGAIN; AND 97124,  
5 NOW, THAT'S A TYPICAL MASSAGE THERAPY, THERAPEUTIC EXERCISE, I  
6 MEAN THERAPEUTIC PROCEDURE; AND THEN THERE'S 97140, MANUAL  
7 THERAPY, WHICH IS DEEP TISSUE WORK, ALSO REFERRED TO AS  
8 MYOFASCIAL RELEASE.

9 HE DIDN'T JUST READ THE CODE BIBLE AND SAY, "WELL, I'M  
10 JUST GOING TO CHOOSE THESE ITEMS. I'M SURE THEY'RE DOING IT,"  
11 AND THAT'S IT. HE PERSONALLY VETTED THESE MASSAGE THERAPY  
12 SESSIONS AT HIS CLINICS. HE MADE SURE THAT THESE ARE THE  
13 ACTUAL PROCEDURES THAT HIS MASSAGE THERAPISTS SHOULD BE  
14 PERFORMING, AND HE BILLED FOR THEM.

15 AND THE PATIENT TESTIMONIES SUPPORT THIS TO THE EXTENT  
16 THEY COULD UNDERSTAND AND DESCRIBE THE EXACT TREATMENTS THEY  
17 WERE GETTING.

18 AND SIMPLY PUT, HE DID EXACTLY WHAT AETNA REPRESENTATIVE  
19 KATHY RICHER SAID DOCTORS NEED TO DO. SHE SAID THEY NEED TO  
20 USE CPT CODES THAT BEST DESCRIBE THE SERVICES PROVIDED, AND  
21 THAT'S EXACTLY WHAT HE DID.

22 AND IT'S NOT ALWAYS BLACK AND WHITE AND SO CLEARCUT,  
23 BECAUSE YOU HEARD MASSAGE THERAPISTS HAVE TO WORK TO BREAK UP  
24 SCAR TISSUE FOR PATIENTS LIKE ANTHONY BONTE. BUT THE CPT BOOK  
25 DOESN'T SAY -- I THINK ONE OF THE INSURANCE REPS TOLD US THERE

1 IS NO SPECIFIC ONE JUST FOR BREAKING UP SCAR TISSUE. YOU HAVE  
2 TO KIND OF READ AND FIGURE OUT WHERE IT WOULD FALL.

3 SO IT'S NOT THAT EASY. HE DID HIS BEST TO INTERPRET THIS  
4 BOOK AND FIGURE IT OUT.

5 AND SPEAKING OF MS. RICHER, SHE IS THE ONLY WITNESS, OTHER  
6 THAN DR. BELCHER AND DR. HARIRI, WHO TESTIFIED IN THIS TRIAL  
7 THAT HAS ANY MEDICAL KNOWLEDGE TO DETERMINE WHAT CODES TO USE  
8 ARE APPROPRIATE.

9 AND SHE SAID, WHEN ASKED, "SO DEPENDING ON" -- SO  
10 MR. HICKEY ASKED HER, "SO DEPENDING ON EXACTLY WHAT IS BEING  
11 DONE, A MASSAGE THERAPIST WHO LAYS HANDS ON A PATIENT MIGHT BE  
12 DOING 97110, MIGHT BE DOING 97112, MIGHT BE DOING A 97124,  
13 MIGHT BE DOING A 97140; RIGHT?

14 YES."

15 SHE DIDN'T SAY, "NO, THAT'S NOT POSSIBLE."

16 THE GOVERNMENT WANTS TO TELL YOU, "WELL, THIS IS OUR  
17 INTERPRETATION." THEY'RE NOT DOCTORS. THEY DON'T -- THEY  
18 DON'T KNOW WHAT WAS HAPPENING EXACTLY IN THOSE THERAPY ROOMS.

19 AND THE PATIENTS, LIKE I SAID, DESCRIBED IN DETAIL SOME OF  
20 THEM, AND THEY SAID THEIR MASSAGE THERAPIST WORKED ON SPECIFIC  
21 AREAS WHERE THE SURGERY OCCURRED.

22 AND ALSO, YOU NEED TO REMEMBER THAT THERE IS NO  
23 REQUIREMENT IN THAT CPT BIBLE THAT SAYS IT HAS TO BE A PHYSICAL  
24 THERAPIST THAT DOES IT. IT DOESN'T SAY THAT.

25 WHAT IT DOES SAY IS THAT ANY HEALTH CARE PROVIDER, SUCH AS

1 A, QUOTE, THERAPIST, THERE'S NO PHYSICAL THERAPIST NEXT TO IT  
2 VERSUS MASSAGE THERAPIST, IT JUST SAY ANY THERAPIST, AND LIKE  
3 MS. CABRAL TOLD YOU -- MS. CABRAL TOLD YOU THERE'S OTHER  
4 CLINICS THAT HAVE TECHNICIANS AND STUFF HELPING THE PHYSICAL  
5 THERAPIST THAT HANDLE THE REST OF THE SESSION. SO I DON'T  
6 REALLY SEE WHAT THE PROBLEM IS HERE.

7 AND THE GOVERNMENT HASN'T ACTUALLY PROVEN OTHERWISE.  
8 THEY'RE JUST KIND OF WORKING ON A PLAY WITH WORDS. THIS IS  
9 PHYSICAL THERAPY, THIS IS MASSAGE THERAPY, HE DIDN'T BILL  
10 RIGHT.

11 WELL, WHY DON'T YOU ACTUALLY LOOK AT THE CODES AND SEE  
12 WHAT HE BILLED AND WHETHER THOSE SERVICES WERE ACTUALLY  
13 PROVIDED? BECAUSE IF YOU DID, AND THE PATIENTS HAVE TOLD US  
14 THEY WERE, AND THAT'S WHY HE BILLED FOR THEM.

15 NOW, YOU'VE ALSO HEARD INSURANCE COMPANIES SAY THEY  
16 GENERALLY DO NOT COVER MASSAGE THERAPY. BUT WHAT INSURERS  
17 COVER AND WHAT CAN BE BILLED BY DOCTORS, THEY'RE NOT THE SAME  
18 THING.

19 NOW, THIS MORNING MR. DELAHUNTY MISREPRESENTED  
20 MS. HARIRI'S TESTIMONY AND SUGGESTED THAT I TOLD HER KIND OF  
21 WHAT TO SAY DURING A BREAK.

22 NOT TRUE. THAT SUGGESTION WAS MADE WHEN SHE WAS ON THE  
23 STAND.

24 AND I ASKED HER, "DID I TELL YOU TO LIE? DID I TELL YOU  
25 TO CHANGE YOUR TESTIMONY."

1 "NO."

2 WHAT DR. HARIRI ACTUALLY SAID TO YOU IS THAT PHYSICIANS  
3 GENERALLY DO NOT ONLY SUBMIT BILLS THAT THEY THINK WILL BE  
4 COVERED BY INSURANCE COMPANIES, BECAUSE THAT WOULD JUST BE  
5 INCREDIBLY TEDIOUS FOR EVERY SINGLE BILL AND PATIENT TO FIGURE  
6 OUT IN SOME BIG CONTRACT WHAT'S COVERED OR NOT, THEY SIMPLY  
7 JUST BILL, OR SUBMIT CLAIMS FOR THE SERVICES THAT WERE  
8 RENDERED. THEN THE INSURANCE COMPANY, ON THEIR END, DECIDES  
9 WHETHER OR NOT THE PATIENT'S PLAN COVERS IT. IF IT DOESN'T,  
10 IT'S DENIED. IF IT DOES, THEY PAY FOR IT.

11 SO THE FACT THAT IT'S NOT COVERED DOESN'T REALLY MATTER  
12 WHETHER OR NOT HE SHOULD HAVE BILLED FOR IT.

13 AND ALL IN ALL, WHEN WE LOOK AT DR. BELCHER'S PHYSICAL  
14 THERAPY PRACTICE, WE SEE SATISFIED PATIENTS, EXCELLENT  
15 THERAPISTS, SEEMINGLY UNINTERESTED INSURANCE COMPANIES, AND A  
16 RESPECTED SURGEON WHO WANTS TO DO EVERYTHING IN HIS POWER TO  
17 HELP HIS PATIENTS TO GET THE BEST OUTCOME.

18 AND DESPITE THIS OVERWHELMING EVIDENCE POINTING TO HIS  
19 INNOCENCE, THE GOVERNMENT INSISTS ON POINTING TO EVERY LITTLE  
20 BILLING MISTAKE OR CALENDARING DISCREPANCY AND CLAIMING THAT  
21 IT'S FRAUD.

22 BUT DR. BELCHER TOOK THE STAND AND HE EXPLAINED TO YOU IN  
23 DETAIL HOW HE BILLED, AND HE HAD NO PROBLEM TELLING YOU THE  
24 TRUTH BECAUSE HE NEVER INTENDED TO DEFRAUD ANYBODY OR TAKE  
25 ANYBODY'S MONEY, WHETHER IT WAS A PATIENT'S OR THE INSURANCE

1 COMPANIES', THAT HE WASN'T RIGHTFULLY OWED.

2 AND HE EVEN ADMITTED TO YOU THAT WHEN PATIENTS RECEIVED,  
3 YES, TWO SESSIONS IN ONE DAY, HE SPLIT UP THE DAYS OF SERVICE  
4 SO THAT THE SYSTEM WOULD NOT MISTAKENLY PROCESS THE SECOND  
5 CLAIM AS A DUPLICATE OR A RESUBMISSION, BECAUSE THESE PATIENTS  
6 DID GET TWO SERVICES. THEY TOLD YOU THEY DID. AND ALL HE'S  
7 TRYING TO DO IS MAKE SURE THAT IT'S PROCESSED AS TWO, NOT  
8 PROCESSED AS FOUR OR THREE WHEN ONLY TWO WERE PROVIDED.

9 HE'S NOT TRYING TO GET MORE MONEY THAT HE'S NOT OWED.  
10 HE'S NOT TRYING TO TELL THE INSURANCE COMPANIES THAT, YOU KNOW,  
11 THESE PATIENTS WERE SEEN FIVE TIMES WHEN THEY WERE ONLY SEEN  
12 ONCE. THAT'S NOT WHAT HE'S DOING.

13 A BILLING GURU HE TRUSTED TOLD HIM IT WAS AN ACCEPTED FIX  
14 TO DO THAT, AND HE DIDN'T THINK HE WAS BREAKING THE LAW BECAUSE  
15 HE WAS JUST -- HE'S NOT A BILLER. HE FIGURED IT OUT. OVER THE  
16 YEARS, HE KIND OF LEARNED, TAUGHT HIMSELF HOW TO BILL, ASKED  
17 PEOPLE FOR ADVICE AND JUST FIGURED IT OUT.

18 SO THE GOVERNMENT'S ARGUMENT IS LARGELY THAT THE PATIENTS  
19 DID NOT RECEIVE THERAPY ON THOSE DATES, BUT THE POINT IS THEY  
20 DID. AND HE'S NOT TRYING TO GET PAID FOR TREATMENTS THAT  
21 WEREN'T PROVIDED.

22 AND NOW I WANT YOU TO THINK BACK TO WHEN DR. BELCHER  
23 TESTIFIED AND HE TOLD YOU, ON THE STAND, "I DIDN'T THINK IT WAS  
24 A PROBLEM."

25 AND MR. DELAHUNTY SAID, "I AGREE YOU DIDN'T THINK IT WAS A



1 PROBLEM." THE GOVERNMENT TOLD YOU THEY AGREED THAT DR. BELCHER  
2 DIDN'T THINK IT WAS A PROBLEM.

3 OF COURSE, THEY DON'T AGREE WITH THAT. THEY THINK IT IS A  
4 PROBLEM. BUT HE ACKNOWLEDGED THAT DR. BELCHER BELIEVED IT  
5 WASN'T A PROBLEM.

6 IF THAT'S THE CASE, LET'S TAKE A LOOK AT THE JURY  
7 INSTRUCTION FOR WILLFULLY.

8 NOW, THE INSTRUCTION FOR WILLFULLY IS DEFINED AS WHEN THE  
9 DEFENDANT ACTED WITH A BAD PURPOSE AND WITH KNOWLEDGE THAT THE  
10 CONDUCT WAS UNLAWFUL.

11 BUT DR. BELCHER TOLD YOU HE DIDN'T THINK IT WAS A PROBLEM,  
12 BASICALLY THAT HE DIDN'T THINK HE WAS BREAKING THE LAW, AND  
13 MR. DELAHUNTY ACKNOWLEDGED IT.

14 AND SO I THINK WE ALL AGREE, DR. BELCHER DIDN'T POSSESS  
15 THE INTENT THE LAW REQUIRES.

16 NOW, HE DOES ACKNOWLEDGE THAT SOME OF THE WEEKEND AND  
17 HOLIDAY BILLING DATES MAY BE MISTAKES ON HIS END, BECAUSE  
18 THAT'S ALL THEY ARE, THEY'RE MISTAKES.

19 AND STACY KINSEL TOLD YOU THAT FROM HER CALCULATIONS,  
20 THOSE WEEKEND AND HOLIDAY CLAIMS WERE NOT EVEN CLOSE TO A  
21 SIGNIFICANT PART OF HIS REVENUE.

22 AND IT'S ALSO POSSIBLE THAT A MAJORITY OF THOSE HOLIDAY  
23 AND WEEKEND CLAIMS ARE CORRECT BECAUSE THE GOVERNMENT CAN'T  
24 DISPROVE THAT. THAT'S BECAUSE 56 -- OUT OF THE 56 PATIENTS  
25 THAT ALLEGEDLY RECEIVED TREATMENT ON A WEEKEND OR A HOLIDAY,

1 THE GOVERNMENT ONLY INTERVIEWED SIX OF THEM TO VERIFY  
2 TREATMENT.

3 NOW, THIS INVESTIGATION STARTED IN 2014 AND THEY ONLY  
4 INTERVIEWED SIX BEFORE MAKING ALL THESE ACCUSATIONS ABOUT  
5 WEEKEND BILLING.

6 THEY DIDN'T EVEN BOTHER TO ASK HIM, DO YOU WORK ON THE  
7 WEEKEND?

8 AND IN MY RESPONSE TO THE DISBELIEF OF THAT, THAT THE  
9 GOVERNMENT HAS ONLY INTERVIEWED SIX OF THOSE PATIENTS, FBI  
10 AGENT TAYLOR HERE TOLD YOU THE GOVERNMENT HAS LIMITED RESOURCES  
11 AND THEY CAN'T FEASIBLY INTERVIEW ALL 56 PATIENTS.

12 AND I AGREE, 56 IS A LOT. BUT SIX DOESN'T EVEN COME  
13 CLOSE.

14 NOW, REGARDLESS OF THAT, DR. BELCHER DID WORK MANY  
15 WEEKENDS. HE TOLD YOU THAT, AND DR. HARIRI CONFIRMED IT. WE  
16 HAD PATIENT CHANDLER GUMBS. HE TOLD YOU ABOUT IT.  
17 ELIZABETH MICHAEL TOLD YOU ABOUT A TIME SHE WAS IN THE HOSPITAL  
18 AND NO APPOINTMENT, SHE CALLED, HE WAS THERE. SHARON THOMAS,  
19 REMEMBER THAT SHE DID SCHEDULE SURGERIES FOR HIM ON THE  
20 WEEKEND.

21 AND DR. BELCHER TESTIFIED THAT NOT OFTEN, BUT ON OCCASION,  
22 HE'S EVEN PERFORMED PHYSICAL THERAPY RELATED PROCEDURES FOR  
23 SOME PATIENTS AS PART OF LIKE A FOLLOW-UP VISIT.

24 MR. DELAHUNTY THIS MORNING TOLD YOU, IN AN EFFORT TO  
25 DESTROY DR. BELCHER'S CREDIBILITY, BY SAYING -- BY SAYING THAT

1 HE -- THAT DR. BELCHER SAID HE PERFORMED PHYSICAL THERAPY ON  
2 THE WEEKENDS ALL THE TIME.

3 HE DIDN'T SAY THAT. HE ACTUALLY TOLD YOU IT WAS RARE. HE  
4 TOLD YOU THE TRUTH. HE WASN'T TRYING TO HIDE IT AND TRYING TO  
5 MAKE IT SEEM LIKE HE WAS THERE ALL THE TIME DOING PHYSICAL  
6 THERAPY. HE TOLD YOU HE DIDN'T DO THAT.

7 WHAT HE IS DOING IS ON OCCASION PERFORMING THESE  
8 THERAPEUTIC PROCEDURES, NOT AS A PHYSICAL THERAPIST, BUT AS THE  
9 ORTHOPEDIC SURGEON CHECKING ON HIS PATIENTS WHO HAD SURGERY AND  
10 WHAT NEEDS TO BE DONE, WHAT MOVEMENTS SHOULD BE USED, HOW  
11 PHYSICAL THERAPY SHOULD IN THE FUTURE CONTINUE. HE'S NOT JUST  
12 SITTING THERE AS A PHYSICAL THERAPIST WORKING ON THE WEEKENDS  
13 AND THAT'S NOT WHAT HE SAID.

14 NOW, LET'S TAKE A LOOK AT THE JURY INSTRUCTIONS FOR HEALTH  
15 CARE FRAUD AND FALSE STATEMENTS.

16 DR. BELCHER IS CHARGED IN COUNTS SEVEN, EIGHT, NINE, AND  
17 TEN FOR HEALTH CARE FRAUD, AND COUNTS SIXTEEN AND SEVENTEEN FOR  
18 FALSE STATEMENTS ON HEALTH CARE MATTERS.

19 NOW, DR. BELCHER AND DR. GANESH ARE CHARGED WITH SIMILAR  
20 COUNTS, THERE'S CONSPIRACY, AND THEN THERE'S SEPARATE  
21 SUBSTANTIVE COUNTS. SO WHEN YOU LOOK AT THE VERDICT FORM TO  
22 MARK WHATEVER YOUR DECISION IS, MAKE SURE TO THINK ABOUT WHICH  
23 DOCTOR YOU'RE MAKING A DECISION FOR AND TO MAKE THAT DECISION  
24 SEPARATELY. THEY ARE NOT ONE PERSON. THESE ARE TWO DIFFERENT  
25 DOCTORS, TWO DIFFERENT INDIVIDUALS.

1           NOW, HEALTH CARE FRAUD AND FALSE STATEMENTS BOTH REQUIRE  
2           THAT DR. BELCHER ACTED KNOWINGLY AND WILLFULLY, AND THAT THERE  
3           MUST BE A PLAN -- DOWN HERE -- INTENDED TO DECEIVE OR CHEAT  
4           SOMEONE OUT OF MONEY.

5           THERE HAVE BEEN BILLING MISTAKES AND CALENDAR MISTAKES,  
6           BUT THEY'RE MISTAKES.

7           AND I HAVEN'T REALLY SEEN, WHERE IS ALL THIS MONEY THAT  
8           HE'S TRYING TO STEAL FROM ANYONE?

9           BECAUSE THAT'S NOT WHAT HE WAS DOING AND HE WASN'T TRYING  
10          TO GET PAID FOR SERVICES THAT DIDN'T HAPPEN. THAT WASN'T WHAT  
11          HE'S TRYING TO DO.

12          SO WHERE IS HIS ATTEMPT -- WHERE IS THE PROOF SHOWING THAT  
13          HE ATTEMPTED TO CHEAT HIS PATIENTS OR DECEIVE THEM? OR THE  
14          INSURANCE COMPANY IN ORDER TO GET PAID MORE?

15          AND EVEN IF YOU AGREE WITH THE GOVERNMENT ABOUT THE  
16          ERRORS, THAT THERE'S ERRORS AND DISCREPANCIES IN HIS BILLING,  
17          THAT'S NOT A CRIME. JUST BECAUSE THERE ARE ERRORS OR KIND OF  
18          INCONSISTENCIES IN YOUR BILLING, THAT DOESN'T AUTOMATICALLY  
19          MEAN IT'S A CRIME.

20          YOU NEED TO BELIEVE BEYOND A REASONABLE DOUBT THAT  
21          DR. BELCHER ACTED KNOWINGLY, AND KNOWINGLY, AS YOU'VE HEARD  
22          FROM THE OTHER PARTIES, IS WHEN -- IS THE -- KNOWINGLY MEANS  
23          THAT IF THE DEFENDANT IS AWARE OF THE ACT AND DOES NOT ACT  
24          THROUGH, DOES NOT ACT THROUGH IGNORANCE, MISTAKE, OR ACCIDENT,  
25          MEANING IF YOU THINK IT'S A MISTAKE, THEN HE'S NOT GUILTY.

1 BUT THE INSTRUCTIONS ALSO REQUIRE NOT JUST THAT HE DID IT  
2 WILLINGLY, BUT ALSO KNOWINGLY. WAIT -- ALSO, YEAH, KNOWINGLY.

3 SORRY. I GOT IT SWITCHED. ALSO WILLFULLY. SORRY ABOUT  
4 THAT. BOTH ARE REQUIRED.

5 AND WILLFULLY SAYS THAT THE DEFENDANT MUST HAVE ACTED WITH  
6 BAD PURPOSE AND WITH THE KNOWLEDGE THAT THE CONDUCT WAS  
7 UNLAWFUL. HE HAD TO THINK WHAT HE WAS DOING WAS BREAKING THE  
8 LAW.

9 NOW, JUST AS WE PROMISED YOU FROM THE FIRST WEEK THAT WE  
10 ALL MET, ALL OF THE EVIDENCE IS IN, YOU'VE HEARD FROM ALL THE  
11 WITNESSES, SO YOU KNOW THAT DR. GREGORY BELCHER IS NOT ONLY A  
12 GOOD PERSON, BUT AN EXCELLENT SURGEON, A CARING DOCTOR, A  
13 COMMITTED FATHER, A HIGH RANKING NAVAL OFFICER, AND IF  
14 ANYTHING, HE'S TOO GENEROUS TO A FAULT. AND CERTAINLY HE'S NOT  
15 ALL ABOUT THE MONEY.

16 THIS REALLY, FOR HIM, IT FEELS LIKE A WITCH HUNT BY THE  
17 GOVERNMENT. THE CLAIMS ARE RIDICULOUS THAT A MAN OF SUCH HIGH  
18 CHARACTER DECIDED TO BE A PETTY CROOK AND CONSPIRE WITH HIS  
19 WIFE TO COMMIT WHAT THEY THINK IS FRAUD. AND WE'VE SEEN SOME  
20 OF HER SUPERBILLS. IT'S LIKE CRAYON SCRIBBLES. THAT'S HIS  
21 PLAN?

22 NOW, I WANT TO ASK YOU, HOW DO YOU WANT YOUR DOCTOR TO  
23 SPEND HIS TIME? AUDITING BILLING DETAILS BECAUSE HE IS  
24 TERRIFIED THAT THE GOVERNMENT IS GOING TO COME AFTER HIM? OR  
25 DO YOU WANT YOUR DOCTOR TO FOCUS ON YOUR CARE AND PROVIDING YOU

1 THE BEST CARE HE CAN?

2 DR. BELCHER WAS, AND STILL IS, THE LATTER, AND IT'S JUST  
3 REALLY TRAGIC THAT THE GOVERNMENT JUST CAN'T ADMIT THEY'RE  
4 WRONG ABOUT HIM.

5 SO THE ONLY VERDICT THAT CAN BE APPLIED HERE FOR  
6 DR. BELCHER IS NOT GUILTY ON ALL OF THE COUNTS BECAUSE, LIKE  
7 I'VE TOLD YOU, HE'S INNOCENT.

8 THANK YOU.

9 THE COURT: SO WE NEED TO TAKE A 20 MINUTE BREAK NOW.  
10 WE REALLY SHOULD FINISH TODAY. I'M WONDERING IF IT'S  
11 POSSIBLE IF YOU COULD POTENTIALLY STAY LATE TODAY TO GET THIS  
12 DONE? COULD YOU MAKE WHATEVER CALLS OR ARRANGEMENTS YOU NEED  
13 TO DURING THIS BREAK TO SEE IF YOU COULD -- IT WOULD BE GOOD TO  
14 GET ALL THE CLOSING ARGUMENTS DONE TODAY, I'LL THEN EXCUSE YOU,  
15 AND THEN TOMORROW MORNING AT 9:00 O'CLOCK YOU CAN START WITH  
16 YOUR DELIBERATIONS.

17 YES?

18 JUROR: ABOUT HOW LONG DO YOU ESTIMATE IT WOULD TAKE?

19 MR. DELAHUNTY: YOUR HONOR, IF WE DO COME BACK IN 20  
20 MINUTES AND WE START AT 4:05, I ANTICIPATE NO MORE THAN 35  
21 MINUTES, AND I WILL DO EVERYTHING I CAN TO BE SURE OF THAT IN  
22 REBUTTAL. I REALLY CAN'T SEE THIS GOING PAST 4:45 IF WE START  
23 AT 4:05.

24 THE COURT: OKAY.

25 ALL RIGHT. DO NOT RESEARCH OR DISCUSS THE CASE. LET'S

1 TAKE A 20 MINUTE BREAK. THANK YOU.

2 (JURY OUT AT 3:47 P.M.)

3 THE COURT: ALL RIGHT. LET'S TAKE OUR BREAK.

4 ACTUALLY, LET ME ASK A COUPLE OF QUESTIONS, ALTHOUGH I WANT TO  
5 GIVE MS. SHORTRIDGE A BREAK.

6 I JUST WANT TO PUT ON THE RECORD THAT MS. SHORTRIDGE IS  
7 GOING TO FILE -- THE RECORD SHOULD REFLECT THE JURORS HAVE LEFT  
8 THE COURTROOM BEFORE I STARTED SPEAKING -- FILE THE DRAFT  
9 VERSION OF THE LEVINSON CROSS FROM FRIDAY, BECAUSE IF EITHER  
10 SIDE APPEALS THIS CASE, I THINK THAT DRAFT RECORD WOULD BE  
11 IMPORTANT TO KNOW WHAT THE PARTIES REQUESTED TO BE STRICKEN,  
12 WHAT I DID STRIKE, WHAT I DIDN'T STRIKE. SO THAT'LL BE ON THE  
13 RECORD, BUT THAT IS ONLY A DRAFT VERSION. SHE'S OBVIOUSLY  
14 GOING TO CLEAN THAT UP, EDIT IT AND, IF SOMEONE ORDERS IT, MAKE  
15 A FINAL VERSION, BUT I JUST WANTED TO PLACE THAT ON THE RECORD.

16 NOW, ON THE JOINT EXHIBIT LIST, IT LOOKS LIKE YOU ALL HAVE  
17 NOT INCLUDED EXHIBIT 73, WHICH WAS ADMITTED ON NOVEMBER 21ST.  
18 CAN YOU CHECK YOUR RECORDS? 73 WAS PART OF THAT LONG LIST, I  
19 THINK, OF THE STIPULATION THAT WAS ADMITTED ALL TOGETHER.  
20 AND --

21 MR. NEDROW: THANK YOU, YOUR HONOR. THAT'S POSSIBLE  
22 THAT THAT WAS AN OVERSIGHT. WE TRIED, THE BEST WE COULD, TO  
23 MAKE SURE WE CORRESPONDED WITH EXACTLY WHAT WAS IN, AND I VERY  
24 MUCH APPRECIATE THE COURT RAISING THAT. WE'LL DEFINITELY CHECK  
25 THAT.

1 THE COURT: OKAY. SO CHECK NUMBER 73. IF IT -- YOU  
2 KNOW, MY LIST, MS. MASON'S LIST, AND MS. SHORTRIDGE'S  
3 TRANSCRIPT HAS THAT EXHIBIT ADMITTED, SO IF YOU WOULD JUST  
4 CHECK YOUR OWN RECORDS TO CONFIRM, AND IF IT IS, COULD YOU FILE  
5 A -- DON'T CALL IT AN AMENDED LIST BECAUSE THE JURY DOESN'T  
6 NEED TO KNOW HOW MANY TIMES THIS DOCUMENT HAS BEEN AMENDED.  
7 JUST FILE A NEW STIPULATED JOINT STATEMENT OF ADMITTED TRIAL  
8 EXHIBITS. AND CAN YOU DO THAT TONIGHT?

9 MR. NEDROW: WELL, WE'LL CHECK, EVEN NOW, EVEN BEFORE  
10 WE BREAK TODAY, AS TO WHETHER IT'S AN ERROR. IT MAY NOT BE AN  
11 ERROR. IN OTHER WORDS -- I'M SORRY. IT MAY BE THAT WE READ IT  
12 IN THE STIP, BUT ULTIMATELY DIDN'T HAVE AN ACTUAL 73. I THINK  
13 THAT MIGHT BE THE CASE, BUT I HAVE TO CHECK.

14 THE COURT: OKAY.

15 MR. NEDROW: SO IF THAT'S THE CASE, OUR VIEW WOULD BE  
16 THAT THE LIST IS CORRECT -- AND WE APOLOGIZE FOR THE  
17 INCONSISTENCY -- BUT THE STIPULATION REFLECTED AN EXHIBIT  
18 ADMITTED THAT WASN'T ACTUALLY ADMITTED. I THINK THAT MAY BE  
19 WHAT HAPPENED. BUT WE'LL CHECK.

20 THE COURT: IT MAY NOT BE A STIPULATION, TO BE  
21 HONEST. IT WAS WHEN THAT BIG SLEW OF BANK RECORDS CAME IN  
22 THROUGH KIKUGAWA. SO IT -- WELL, I THINK IT WAS A STIP. 50,  
23 51, 54, 60, 61, 67, 70, 72, 73, 74, 90, 112.

24 MR. NEDROW: I THINK THAT'S RIGHT, YOUR HONOR.

25 THE COURT: THAT SERIES OF EXHIBITS.



1 MR. NEDROW: I THINK 73 WAS REFERENCED IN THE  
2 STIPULATIONS, BUT I THINK IT'S POSSIBLE THAT WE, UNFORTUNATELY,  
3 DID NOT CORRESPOND IT TO WHAT WE ULTIMATELY ENDED UP WITH IN  
4 THE BANK RECORDS.

5 SO I THINK 73 MAY ULTIMATELY, FROM OUR PERSPECTIVE, HAVE  
6 BEEN LEFT BLANK, BUT THE LANGUAGE WAS LEFT IN THE STIPULATION,  
7 WHICH WOULD MEAN THE STIPULATION HAS A NUMBER THAT DOESN'T  
8 CORRESPOND WITH WHAT WAS ACTUALLY ADMITTED, BUT WE DIDN'T  
9 ACTUALLY PUT IN A PHYSICAL 73.

10 THE COURT: WHY DON'T YOU JUST CONFIRM THAT, PLEASE?

11 MR. NEDROW: WE'LL CONFIRM THAT.

12 THE COURT: JUST CONFIRM THAT.

13 MR. NEDROW: YES.

14 THE COURT: AND THEN WHERE'S THE RED WELL, MS. MASON?  
15 DO WE HAVE IT?

16 THE CLERK: IT'S BEHIND YOU, JUDGE, ON YOUR SHELF.

17 THE COURT: SO THE VERDICT FORM IS 281, THAT WAS  
18 FILED LAST NIGHT, THAT EVERYONE HAS APPROVED. I'LL LET YOU  
19 LOOK AT IT.

20 WE HAVE THE TEN BLANK JURY NOTES. I'LL LET EVERYONE LOOK  
21 AT THAT AS WELL.

22 YOU'LL HAVE TO CONFIRM THE EXHIBIT LIST AND GET THAT.

23 HAVE YOU HAD A CHANCE TO REVIEW THE COMPUTER, AND DO YOU  
24 HAVE A SET OF EXHIBITS THAT WILL GO TO THE DELIBERATION ROOM?

25 MR. NEDROW: WE HAVE BEEN WORKING ON THE EXHIBITS AND

1 WE THINK THEY'RE CLOSE, THOUGH WE HAVE TO, OF COURSE, CONFER  
2 WITH COUNSEL ON THE PHYSICAL EXHIBITS.

3 AND WE'RE AVAILABLE WHENEVER TO LOOK AT THE COMPUTER, BUT  
4 I DON'T KNOW THAT WE'VE ACTUALLY DONE THAT YET.

5 THE COURT: OH, OKAY. I WOULD -- SINCE I ANTICIPATE  
6 THE JURY WILL START DELIBERATING AT 9:00 A.M., I'D PREFER THAT  
7 YOU REVIEW AND APPROVE THE COMPUTER TONIGHT.

8 MR. NEDROW: YES.

9 THE COURT: SO THAT WE'LL JUST ACTUALLY WHEEL IT INTO  
10 THE DELIBERATION ROOM TONIGHT AND IT'LL BE READY FOR THEM WHEN  
11 THEY COME.

12 WHEN DO YOU THINK YOU CAN APPROVE THE EXHIBITS?

13 MR. NEDROW: MAY I HAVE A QUICK SECOND, YOUR HONOR --

14 THE COURT: YES.

15 MR. NEDROW: -- WITH MS. BURNEY-WILLIAMS?

16 THE COURT: YES.

17 MR. NEDROW: YOUR HONOR, WE THINK WE HAVE A PRETTY  
18 GOOD CUT, LIKE PHYSICALLY PUT TOGETHER ON THE HARD -- THE HARD  
19 COPY PAPER EXHIBITS --

20 THE COURT: UM-HUM.

21 MR. NEDROW: -- OF WHAT WE THINK IS IN AND WE THINK  
22 WE HAVE THEM PULLED. AGAIN, WE NEED TO MEET WITH COUNSEL --

23 THE COURT: THAT'S FINE.

24 MR. NEDROW: -- AND MAKE SURE WE'RE IN AGREEMENT ON  
25 THAT.

1 SO I THINK PROBABLY THE BEST THING IS TO HAVE THAT OCCUR  
2 AFTER WE'RE DONE TODAY.

3 THE COURT: YOU WANT TO BRING IT IN TOMORROW MORNING?

4 MR. NEDROW: IF THAT'S POSSIBLE, THAT WOULD BE GREAT.

5 THE COURT: THAT'S FINE. I WOULD WANT IT HERE, YOU  
6 KNOW, RIGHT AT 9:00 SINCE I'M GOING TO TELL THIS JURY TO COME  
7 BACK AND START DELIBERATING RIGHT AT 9:00. SO PERHAPS YOU  
8 COULD JUST BRING IT HERE AT 9:00 O'CLOCK AND WE'LL JUST PUT ON  
9 THE RECORD THAT EVERYONE HAS APPROVED THAT PARTICULAR SET OF  
10 DOCUMENTS GOING INTO THE JURY ROOM.

11 MR. NEDROW: AND WE'LL JUST MEET AND CONFER WITH  
12 COUNSEL EITHER AFTER COURT TODAY OR EARLY TOMORROW MORNING.  
13 PROBABLY AFTER COURT TODAY WOULD BE BETTER. BUT, YES, WE'LL  
14 MEET AND CONFER TO MAKE SURE THAT SET IS WHAT EVERYBODY IS IN  
15 AGREEMENT ON, YES.

16 THE COURT: OKAY. WELL, AT A MINIMUM, TODAY I'D LIKE  
17 YOU TO LOOK AT THE RED WELL WITH THE VERDICT FORM AND THE BLANK  
18 NOTES AND PUT ON THE RECORD THAT YOU'VE APPROVED IT SO THAT  
19 MS. MASON CAN GIVE AT LEAST THIS RED WELL FIRST THING IN THE  
20 MORNING AT 9:00.

21 AND THEN AS FAR AS THE ACTUAL EXHIBITS AND THE FINAL  
22 EXHIBIT LIST, IF YOU NEED TONIGHT TO FINALIZE ALL OF THOSE, YOU  
23 CAN JUST BRING THOSE AT 9:00 A.M. IN THE MORNING AND WE'LL  
24 PLACE ON THE RECORD THAT EVERYONE HAS APPROVED WHAT'S ACTUALLY  
25 GOING INTO THE JURY ROOM.

1 I GUESS THAT'S -- THAT COULD BE TRUE FOR THE COMPUTER AS  
2 WELL IF YOU WANTED TO WAIT UNTIL TOMORROW MORNING TO PUT ON THE  
3 RECORD THAT YOU'VE REVIEWED IT IN CASE YOU WANT A LITTLE MORE  
4 TIME TODAY TO DO THAT.

5 MR. NEDROW: YES. THANK YOU, YOUR HONOR.

6 THE COURT: OKAY. SO WE'VE GOT THE VERDICT FORM, THE  
7 EXHIBIT LIST, THE NOTES, THE ACTUAL EXHIBITS, I'M GOING TO SAY  
8 MONDAY AT 9:00 A.M. FOR THE EXHIBIT LIST AND MONDAY AT  
9 9:00 A.M. FOR THE EXHIBITS, BUT WE'LL DO THE VERDICT FORM AND  
10 THE NOTES TODAY.

11 MR. NEDROW: DID YOU SAY MONDAY, YOUR HONOR? DID YOU  
12 MEAN WEDNESDAY, TOMORROW?

13 THE COURT: I'M SORRY. THAT'S RIGHT, WEDNESDAY.

14 MR. NEDROW: THANK YOU.

15 THE COURT: I'M SORRY. THANK YOU FOR CORRECTING ME.

16 OKAY. YOU KNOW, I DID, WHEN I --

17 (PAUSE IN PROCEEDINGS.)

18 THE COURT: I DON'T KNOW IF I WAS CLEAR WHEN I READ  
19 MY RULING ON THE PRIOR CONSISTENT STATEMENTS BEING ADMITTED  
20 FROM DR. BELCHER'S DEPOSITION FROM THE LANDIS LITIGATION.

21 BUT I'LL JUST SAY FOR THE RECORD THAT, YOU KNOW, THE CASE  
22 LAW OF 801(D)(1)(B)(2) DISCUSSES A BROAD INTERPRETATION OF THIS  
23 NEW RULE THAT CAME INTO EFFECT THROUGH THE 2014 AMENDMENTS, BUT  
24 THEN THE ADVISORY COMMITTEE NOTES REGARDING THE 2014 AMENDMENTS  
25 SAY THAT THE AMENDMENT DOES NOT MAKE ANY CONSISTENT STATEMENT

1           ADMISSIBLE THAT WAS NOT ADMISSIBLE PREVIOUSLY. THE ONLY  
2           DIFFERENCE IS THAT PRIOR CONSISTENT STATEMENTS OTHERWISE  
3           ADMISSIBLE FOR REHABILITATION ARE NOW ADMISSIBLE SUBSTANTIVELY  
4           AS WELL.

5                       SO TO THE COURT, THERE SEEMED TO BE A LITTLE BIT OF  
6           TENSION. ON THE ONE HAND, IT'S SUPPOSED TO BE A BROAD  
7           INTERPRETATION.

8                       ON THE OTHER HAND, IT'S NOT REALLY SUPPOSED TO CHANGE  
9           ADMISSIBILITY OF STATEMENTS THAT WERE PREVIOUSLY NOT  
10          ADMISSIBLE. IT'S JUST SUPPOSED TO MAKE THINGS THAT WERE  
11          ADMISSIBLE FOR REHABILITATION NOW SUBSTANTIVELY ADMISSIBLE AS  
12          WELL.

13                      I'LL JUST PUT THAT POINT ON THE RECORD.

14                      OKAY. WE SHOULD TAKE OUR BREAK AS WELL. I REALLY NEED TO  
15          GIVE MS. SHORTRIDGE A BREAK.

16                      BUT I WILL LEAVE THE RED WELL WITH BOTH THE BLANK JUROR  
17          NOTES AND THE VERDICT FORM HERE SO COUNSEL CAN LOOK AT IT.  
18          WHEN WE COME BACK, I'LL JUST PUT ON THE RECORD THAT YOU'VE  
19          APPROVED THAT AND AT LEAST THAT CAN GO INTO THE JURY  
20          DELIBERATION ROOM.

21                      MR. NEDROW: YES. THANK YOU, YOUR HONOR.

22                      THE COURT: THANK YOU.

23                      (RECESS FROM 3:57 P.M. UNTIL 4:10 P.M.)

24                      THE COURT: OKAY. CAN WE START, PLEASE?

25                      MR. NEDROW: YES, YOUR HONOR.

1 (JURY IN AT 4:11 P.M.)

2 THE COURT: ALL RIGHT. WELCOME BACK. PLEASE TAKE A  
3 SEAT.

4 GO AHEAD, PLEASE.

5 MR. DELAHUNTY: THANK YOU, YOUR HONOR.

6 (MR. DELAHUNTY GAVE HIS REBUTTAL CLOSING ARGUMENT ON  
7 BEHALF OF THE GOVERNMENT.)

8 MR. DELAHUNTY: I WILL DO EVERYTHING I CAN TO BE  
9 BRIEF. THERE'S BEEN A LOT OF EVIDENCE IN THIS CASE. IT'S TIME  
10 TO FINISH.

11 BUT THERE'S A LOT OF THINGS COVERED BY MS. CHUNG AND  
12 MR. HOROWITZ, AND I WILL TRY TO DEAL WITH THEM AS FAST AS I  
13 CAN. I MAY JUMP AROUND. I'M TRYING TO MOVE QUICKLY.

14 FIRST OF ALL, IT WAS ARGUED TO YOU THAT THERE WAS SOME  
15 SORT OF REAL PROBLEM THAT THIS LYTEC CALENDAR, WHICH IS NOT IN  
16 THIS CASE AND IS NOT EVIDENCE, MAY EXONERATE SOMEBODY, OR IT  
17 MAY NOT. THAT WAS ACTUALLY THE ARGUMENT.

18 BUT BY SUGGESTING THAT, DR. BELCHER'S ATTORNEY IS ASKING  
19 YOU TO SPECULATE. YOU ARE BEING ASKED, "I DON'T KNOW WHAT'S  
20 OUT THERE, BUT WHY DON'T YOU GO AHEAD AND JUST SPECULATE ON  
21 WHAT'S OUT THERE, AND, HEY, IF YOU'RE INCLINED TO, JUST GO  
22 AHEAD AND GO SO FAR AS TO SPECULATE THAT WHAT'S ON THERE WOULD  
23 ACTUALLY CONTRADICT THE GOOGLE CALENDAR."

24 THAT IS AN INVITATION TO SPECULATE, AND THAT DOES NOT MEET  
25 A REASONABLE DOUBT.

1 CAN WE GO TO THE ELMO, PLEASE?

2 I MEAN, IT IS CLEARLY NOT REASONABLE DOUBT. IT IS NOT AN  
3 ACCURATE STATEMENT OF THE LAW. PLEASE TELL ME THAT -- I  
4 THOUGHT WE WERE GOING TO HAVE ANOTHER UNTIMELY BREAKDOWN THERE.  
5 BUT THANK YOU.

6 IT'S CRYSTAL CLEAR IN THE INSTRUCTION YOU'RE GOING TO GET,  
7 A REASONABLE DOUBT IS A DOUBT BASED UPON REASON AND COMMON  
8 SENSE AND IS NOT BASED PURELY ON SPECULATION.

9 THAT'S NOT A REASONABLE DOUBT TO START TALKING ABOUT  
10 THINGS YOU DIDN'T SEE AND SAYING, "I DON'T KNOW WHAT'S ON  
11 THERE, BUT WHY DON'T YOU GO AHEAD AND SPECULATE AND ASSUME THAT  
12 THERE'S SOMETHING GOOD ON THERE."

13 SAME THING WITH REGARD TO THE MASSAGE THERAPISTS. YOU  
14 DON'T KNOW WHAT THEY WOULD HAVE SAID. TO ASK YOU TO ASSUME  
15 THAT IT WOULD HAVE BEEN SOMETHING HELPFUL TO DR. BELCHER IS TO  
16 ASK YOU, AGAIN, TO ASSUME TO SPECULATE, OR IT'S ASKING YOU TO  
17 SPECULATE AND ASSUME THE VERY BEST FOR DR. BELCHER.

18 THAT'S IMPROPER. THAT'S NOT WHAT THE LAW ALLOWS YOU TO  
19 DO, AND THE GOVERNMENT ISN'T ASKING YOU TO SPECULATE, AND  
20 NOBODY IN THIS CASE SHOULD BE ASKING YOU TO SPECULATE.

21 YOU ARE BEING ASKED AND CHARGED WITH EVALUATING THE  
22 EVIDENCE AS YOU UNDERSTAND AND REMEMBER IT. THAT IS YOUR ROLE  
23 IN THIS TRIAL. YOUR MEMORY, YOUR UNDERSTANDING, YOUR WEIGHT OF  
24 THE EVIDENCE IS FINAL, AND IT IS THE EVIDENCE THAT YOU ARE  
25 EVALUATING IN THIS CASE.

1 LET'S TALK NOW ABOUT DR. BELCHER'S ROLE IN SUBMITTING  
2 DR. GANESH'S CLAIMS. ON THE ONE HAND, HE'S VERY CANDID ABOUT  
3 THIS. HE DID IT FOR YEARS. YEARS. I ALMOST WANT TO REPEAT  
4 THAT FOR THE REST OF MY ALLOTTED TIME. HE SUBMITTED  
5 DR. GANESH'S CLAIMS FOR YEARS, AND PARTICULARLY THE 2010 TO  
6 2014 TIME PERIOD, WHICH IS THE CENTER OF THIS CASE, THE CENTER  
7 OF THE CONSPIRACY, THE OVERLAPPING TIME IN THE MONEY  
8 LAUNDERING. THAT'S WHEN HE WAS SUBMITTING CLAIMS FOR HER.

9 AND HE WAS DOING IT AT THE -- THE EFFORTS WERE MADE TO  
10 MINIMIZE THAT AS DATA ENTRY, BUT ALL THAT IS IS HE TOOK THE  
11 STACKS OF SUPERBILLS, WHICH ARE THE CPT CODES AND THE PATIENT  
12 NAMES, AND THEN SUBMITTED THE CLAIM ON A HCFA 1500 FORM.

13 IF YOU RECALL, THAT'S EXACTLY WHAT CINDY JAMISON DID.  
14 THAT'S EXACTLY HOW CINDY JAMISON DESCRIBED HER JOB. AND YOU  
15 KNOW WHAT HER TITLE WAS? MEDICAL BILLER. THAT'S THE ROLE THAT  
16 DR. BELCHER HAD.

17 DID HE SUBMIT ALL THE BILLS? NO. DID HE SUBMIT THEM FOR  
18 YEARS? YES. DID HE SUBMIT STACKS FOR YEARS? YES.

19 WHY IS THAT ALSO IMPORTANT? WELL, FIRST OF ALL, IT'S  
20 IMPORTANT BECAUSE THERE CAN BE NO EFFORT TO MINIMIZE THIS AS  
21 ASSOCIATION OR JUST PRESENCE OR NEARBY OR UNLUCKY TO BE AROUND  
22 DR. GANESH. THAT'S PARTICIPATION. THAT'S GETTING INVOLVED.  
23 THAT'S HELPING. THAT'S MAKING AN EFFORT TO MAKE SURE THESE  
24 FALSE CLAIMS GET SUBMITTED.

25 AND MAKE NO MISTAKE. THEY'RE FALSE. THESE CLAIMS THAT I



1 WALKED THROUGH TEDIIOUSLY, ALL 16 OF THEM, WERE NOT CHALLENGED  
2 ON THE EVIDENCE.

3 THERE WAS ONE CHALLENGE TO A WEEKEND VISIT FOR  
4 DR. BELCHER'S PHYSICAL THERAPY, I BELIEVE THE NAME WAS  
5 MICHAEL KELLEY, BUT I UNDERSTAND TALKING TO COUNSEL AT THE  
6 BREAK THAT THEY WERE MISSPEAKING, THAT THEY ACTUALLY MEANT TO  
7 REFER TO ANTHONY BONTE'S WEEKEND VISIT.

8 BE THAT AS IT MAY, THAT'S THE ONLY ONE THAT'S EVEN  
9 CHALLENGED, AND I'LL COME BACK AS TO WHETHER THAT'S A WEIGHTY  
10 CHALLENGE.

11 THE OTHER 16 THEY DIDN'T CHALLENGE.

12 NOW, THEY'RE CHALLENGED AS TO WHETHER THERE WAS AN INTENT  
13 THERE OR NOT, OR WHETHER IT'S OKAY -- THEY'RE SOMEWHAT  
14 CHALLENGED ON THE MASSAGE THERAPY THAT ACTUALLY TOOK PLACE,  
15 THAT MASSAGE THERAPY IS OKAY.

16 BUT ON THESE ONES WHERE NOTHING HAPPENED, NOBODY IS  
17 CHALLENGING THAT. ALL THESE GANESH CLAIMS, NO ONE IS  
18 CHALLENGING THAT. THOSE ARE ALL FALSE.

19 YOU KNOW, THERE WAS AN EFFORT TO MALIGN THE INSURERS'  
20 ABILITIES TO TRACK THIS, TO SOMEHOW BESMIRCH THESE INSURERS.  
21 AND I GET IT. INSURERS AREN'T EVERYONE'S FAVORITE PEOPLE,  
22 PARTICULARLY HEALTH INSURERS. IT'S AN EASY TARGET. IT'S A  
23 SOFT TARGET TO PICK ON INSURANCE COMPANIES.

24 BUT YOU KNOW WHAT? THEY CAME HERE AND THEY LOOKED YOU IN  
25 THE EYE AND THEY EXPLAINED, "WE DO THIS ALL THE TIME. WE RUN A

1 REPORT ON VARIOUS DOCTORS, GENERATE A SPREADSHEET. THIS  
2 SPREADSHEET LOOKS LIKE EVERY OTHER ONE I DO. THAT'S JUST WHAT  
3 I DO."

4 AND YOU KNOW WHAT? I WENT THROUGH ALL THOSE CLAIMS AND I  
5 INDICATED WHAT WAS ON THE SPREADSHEETS VERSUS ON THE EOB'S THAT  
6 YOU LOOKED AT AND I SHOWED YOU ON SOME OF THEM, I SAID IT  
7 CORROBORATES, AND I GAVE YOU THE ROW NUMBER AND THE SPREADSHEET  
8 THAT IDENTIFIED IT AND THAT WAS NOT CHALLENGED.

9 THERE IS NO BASIS TO UNDER -- TO DISCOUNT THE INSURERS'  
10 ABILITIES TO TRACK WHAT WAS SUBMITTED TO THEM. ANY EFFORT TO  
11 SUGGEST THAT IS AGAIN ASKING FOR SPECULATION. IT'S NOT IN THE  
12 RECORD. THOSE INSURERS TRACKED THEIR CLAIMS ACCURATELY.

13 AND WHAT THOSE CLAIMS SHOW IS A HISTORY OF FALSE CLAIMS,  
14 AND I COVERED THAT.

15 SO I WON'T GO BACK THROUGH THEM AGAIN, BUT I WANT TO  
16 EMPHASIZE ONE OR TWO THINGS ON THAT. I WANT TO EMPHASIZE THE  
17 FACT THAT WHEN YOU LOOK AT THOSE SPREADSHEETS, THEY CLEARLY  
18 INDICATE COORDINATION BY THE TWO DOCTORS. WHY? IT'S A MATTER  
19 OF PIECING TOGETHER THOSE TWO PATTERNS. THE FIRST PATTERN IS  
20 THAT TWO INSURERS WERE ALWAYS BILLED AS IF DEWEES SAW THE  
21 PATIENT, AND THE OTHER THREE WERE NOT.

22 AND HOW DO I KNOW IT'S THE OTHER THREE? GO AHEAD AND LOOK  
23 AT 15B, THAT'S CIGNA'S, ONE OF THE CIGNA SPREADSHEETS. 40B --  
24 EXCUSE ME. 40B IS ONE OF CIGNA'S, 15B IS ONE OF AETNA'S, 42A  
25 IS UNITED HEALTH CARE, AND COMPARE THOSE TO 38A AND 39A AND YOU

1 WILL SEE THE BIG DIVIDE. DEWEES ALWAYS BILLED FOR TWO, NOT THE  
2 OTHER TWO, THE OTHER THREE.

3 BUT SOMEHOW DR. BELCHER ALWAYS WAS ON TRACK. AND THE  
4 ARGUMENT WAS MADE, "WELL, WE DON'T KNOW WHICH CLAIMS  
5 DR. BELCHER MADE AND WHICH ONES HE DIDN'T SUBMIT FOR GANESH'S  
6 PATIENTS."

7 BUT YOU KNOW WHAT? ALL THE ONES THAT WERE SUBMITTED ARE  
8 THE SAME. NO ONE IS ASKING YOU, "OH, IT'S ONLY THE FIVE ONES  
9 THAT SHOWED DEWEES, THAT WAS CLEARLY WHAT DR. BELCHER  
10 SUBMITTED." YOU KNOW THAT HE SUBMITTED THESE CLAIMS IN  
11 COORDINATION WITH DR. GANESH BECAUSE THEY ALL LOOK THE SAME.  
12 AND YOU KNOW DR. BELCHER IS SUBMITTING CLAIMS, SO THE FACT THAT  
13 THEY CAN COORDINATE AND LINE UP, THAT INDICATES COOPERATION AND  
14 AGREEMENT BETWEEN THE TWO DOCTORS.

15 IT'S NOT LUCK. IT CAN'T BE THAT IT'S ALWAYS ONE WAY WITH  
16 TWO AND NOT THE OTHER THREE. IT CANNOT BE EXPLAINED WITH  
17 COINCIDENCE OR HAPPENSTANCE. IN FACT, IT REALLY WASN'T --  
18 THERE WAS NO EFFORT TO REALLY EXPLAIN HOW THAT JUST HAPPENED TO  
19 PLAY OUT.

20 SIMILARLY, WE TALKED ABOUT EXHIBIT 110A, THE LETTER FROM  
21 AETNA TO DR. GANESH THAT SAID, "GOT SOME PROBLEMS WITH 99245."  
22 AND WE LOOKED AT THE SPREADSHEET. ALL OF A SUDDEN AFTER THAT  
23 LETTER, IT CHANGES -- ALL OF THE CLAIMS, AGAIN, ALL OF THE  
24 CLAIMS CHANGE FROM 99245 TO DRAMATICALLY DIMINISH AND IT'S  
25 ALMOST ALL 99215.

1           SO, AGAIN, HOW -- IF DR. BELCHER IS SUBMITTING ONLY THE  
2 ELECTRONIC AND NOT THE PAPER, HOW COULD IT BE THAT ALL THE  
3 ELECTRONIC AND ALL THE PAPER MATCH EACH OTHER? THEY JUST KEEP  
4 MATCHING.

5           THEY DO THAT BECAUSE THERE WAS AN AGREEMENT BETWEEN THE  
6 TWO DOCTORS AND COORDINATION AND COOPERATION. THAT IS YOUR  
7 CIRCUMSTANTIAL EVIDENCE AND IT IS OVERWHELMING HERE ON THE  
8 AGREEMENT BETWEEN THE TWO DOCTORS TO COORDINATE THE SUBMISSION  
9 OF DR. GANESH'S CLAIMS.

10           AND EVEN -- YOU KNOW -- WELL, I'M GOING TO KEEP GOING.

11           IN FACT, I MEAN, DR. BELCHER'S ATTORNEY EVEN CHARACTERIZED  
12 DR. BELCHER AS SAYING TO DR. GANESH, "YOU MIGHT NOT BE USING  
13 THE RIGHT CODE." I MEAN, THAT'S KNOWLEDGE THAT IT'S NOT BEING  
14 DONE RIGHT, BUT STILL PARTICIPATING. THAT'S KNOWLEDGE.

15           THEN YOU ALSO -- BEFORE ALL THIS BEGAN, BEFORE THE CHARGED  
16 CONSPIRACY BEGAN, YOU HEARD FROM DR. LANDIS -- OR MS. LANDIS  
17 THAT SHE HAD RAISED THESE CONCERNS AND HAD A MEETING WITH  
18 DR. BELCHER AND DR. GANESH TO IDENTIFY HER CONCERNS. AND, YOU  
19 KNOW, I ASK YOU TO RELY UPON YOUR MEMORY OF THAT TESTIMONY, BUT  
20 I REMEMBER IT AS BEING, "QUESTION, AT SOME POINT, DID YOU  
21 DECIDE TO SPEAK TO SOMEBODY ELSE ABOUT THE RED FLAGS THAT YOU  
22 WERE CONCERNED ABOUT?"

23           "ANSWER: WELL, I WAS TIRED OF WAITING FOR MEETINGS AND  
24 DR. BELCHER KNEW THERE WAS STRESS THERE.

25           "QUESTION: MS. LANDIS, PLEASE TELL US ABOUT YOUR

1 COMMUNICATION WITH DR. BELCHER REGARDING YOUR CONCERN ABOUT THE  
2 RED FLAGS WITH DR. GANESH.

3 "ANSWER: WELL, I TOLD HIM I WASN'T GOING TO COME TO ANY  
4 MORE MEETINGS IF SHE DOESN'T SHOW UP.

5 "AND WHAT DID HE SAY?

6 "ANSWER: HE WOULD TAKE CARE OF IT.

7 "DID HE TAKE CARE OF IT?

8 "WELL, THEN WE WERE TOLD THAT WE HAD TO JUST MEET WITH  
9 HIM.

10 "AND THEN THE NEXT MONTH, SHE TOLD US WE WERE ONLY TO MEET  
11 WITH HER, AND IT WENT BACK AND FORTH.

12 "AND THEN IN THE END, IT WAS -- DR. BELCHER TRIED TO TAKE  
13 THINGS OVER AND -- THE MONTHLY MEETINGS.

14 "DO YOU REMEMBER APPROXIMATELY WHEN DR. BELCHER BECAME  
15 PERSONALLY INVOLVED IN DR. GANESH'S BILLINGS?

16 "HE WAS ALWAYS INVOLVED."

17 THAT'S MS. LANDIS'S TESTIMONY. THAT'S CIRCA 2005.

18 FAST FORWARD TO 2014, 2015. SAME THING IS GOING ON.  
19 DR. BELCHER ADMITTED HE WAS SUBMITTING CLAIMS ALL THE WAY  
20 THROUGH, OR INTO 2014 AS WELL. AND NO ONE IS -- IT'S  
21 OVERWHELMING PROOF THAT DR. GANESH'S PATIENTS HAD FALSE CLAIMS  
22 SUBMITTED TO THEIR INSURERS. IT'S OVERWHELMING.

23 THE ARGUMENTS WERE MADE BY BOTH DEFENDANTS THAT, "WELL, WE  
24 WEREN'T MAKING A LOT OF MONEY." WELL, FIRST OF ALL, DR. GANESH  
25 WAS. YOU'VE SEEN THE MONEY. YOU SAW THE \$800,000 POOLED

1 TOGETHER TO BUY THE HOUSE THAT WAS BESIDE THEM. AND THAT WAS  
2 ONLY FROM TWO INSURERS. BY ANY MEASURE, I THINK IT'S FAIR TO  
3 SAY THAT IS A LOT OF MONEY. 800,000 CASH, JUST POOLED TOGETHER  
4 TO BUY THIS HOUSE? AND THAT DEPOSIT WAS MADE, ULTIMATELY  
5 REFUNDED. SO MONEY WAS MADE.

6 BUT EVEN IF YOU THINK IT WASN'T, I WOULD ASK YOU TO LOOK  
7 AT THE INSTRUCTIONS, AND THIS CAN -- THIS COMES BACK TO THE  
8 IDEA THAT, LIKE, DR. BELCHER, YOU KNOW, HE'S, HE'S NOT MAKING  
9 MONEY, SO HE COULDN'T HAVE BEEN -- WITH HIS PHYSICAL THERAPY,  
10 SO HE COULDN'T HAVE BEEN TRYING TO CHEAT.

11 BUT MAYBE HE WAS SLOW ON THE UPTAKE THERE. MAYBE IT TOOK  
12 HIM A WHILE TO REALIZE HE COULDN'T MAKE MONEY. MAYBE THAT'S  
13 WHY HE KEPT DOING MASSAGE THERAPIES, BECAUSE IT WAS ONLY \$40 A  
14 SESSION WAS WHAT HE OWED PER MASSAGE THERAPIST, AND THEN WAS  
15 PAID BACK, AND YOU SAW THESE CLAIMS OF 130, 160, 218 FOR THOSE  
16 MASSAGE THERAPY CLAIMS WHEN IT WAS MASSAGE THERAPY.

17 AND THE SUCCESS, HOWEVER YOU DEFINE IT, OF THE FRAUD  
18 SCHEME ISN'T -- WELL, I'LL PUT IT THIS WAY: THE FIRST PART OF  
19 THE ELEMENT OF THE CRIME, THE DEFENDANT KNOWINGLY AND WILLFULLY  
20 EXECUTED OR ATTEMPTED TO EXECUTE A SCHEME OR PLAN TO DEFRAUD,  
21 AND SECOND ELEMENT, THE DEFENDANT ACTED WITH THE INTENT TO  
22 DEFRAUD.

23 SO EVEN IF YOU THINK THAT DR. BELCHER'S PHYSICAL THERAPY  
24 PRACTICE WASN'T PROFITABLE SO IT WASN'T FRAUDULENT, IT DOESN'T  
25 MATTER. EVEN IF YOU GO THAT FAR, IT DOESN'T MATTER PER THE

1 LAW. THE ATTEMPT WAS THERE. THE EFFORT TO SUBMIT FALSE CLAIMS  
2 WAS RELENTLESS. IT HAPPENED FOR YEARS. YOU SAW THAT WITH THE  
3 PATIENTS IN 2012, 2013, 2014, THE SPLIT CLAIMS.

4 AND THE ARGUMENT HAS BEEN MADE THAT THE GOVERNMENT CHERRY  
5 PICKED IT, THEY JUST WENT OUT AND ONLY TALKED TO SIX PATIENTS.  
6 THIS WAS MADE, THIS ARGUMENT, THAT THE GOVERNMENT JUST PICKED  
7 SIX PEOPLE AND, YOU KNOW, THEY CAN PROVE WHATEVER THEY WANT TO  
8 PROVE, THEY JUST PICK ANY SIX PEOPLE.

9 WELL, YOU KNOW WHAT? WHEN MS. MICHAEL CAME IN HERE AND  
10 TESTIFIED, THE GOVERNMENT HAD NEVER MET HER BEFORE, DIDN'T ASK  
11 HER TO COME TESTIFY BEFORE. YOU KNOW WHO PICKED THAT PATIENT  
12 TO COME IN HERE? DR. BELCHER PICKED THAT ONE.

13 AND YOU KNOW WHAT HAPPENED WHEN WE LOOKED AT HER BILLING  
14 HISTORY CLOSELY? SAME AS EVERYONE ELSE'S.

15 THERE CANNOT BE AN ARGUMENT HERE THAT THERE WAS CHERRY  
16 PICKING BECAUSE THE ONE PATIENT THAT WAS CHERRY PICKED BY  
17 DR. BELCHER OUT OF ALL OF HIS HAD THE EXACT SAME PATTERN.

18 NOW, WE TALKED -- I'D LIKE TO GO BACK TO THE MONEY  
19 LAUNDERING ISSUE. I WANT TO EMPHASIZE THE SARATOGA LASER  
20 ACCOUNT BECAUSE I THINK THIS IS PARTICULARLY ILLUMINATING.  
21 THIS IS A BUSINESS OF DR. GANESH'S. MAYBE DR. BELCHER  
22 CONSIDERS HIMSELF A CO-OWNER, BUT HE ALSO DESCRIBED IT AS  
23 BASICALLY HER THING. IT'S FACIAL TREATMENTS. THAT'S NOT  
24 SOMETHING DR. BELCHER DOES. THERE'S NO EVIDENCE IN THIS CASE  
25 THAT HE TREATS FACIAL THERAPY OR ANYTHING OF THAT NATURE. HE'S

1 A SURGEON AND HE SUPERVISES SOME PHYSICAL THERAPISTS.

2 THAT'S DR. GANESH'S PRACTICE. THAT'S HER PATIENTS.

3 HE'S ON THAT ACCOUNT AS WELL, AND YOU KNOW WHAT HAPPENS ON  
4 THAT ACCOUNT? NO CASHIER'S CHECKS.

5 AND THE SIGNIFICANCE OF THAT IS IT COMPLETELY UNDERMINES  
6 ANY ARGUMENT THAT THE CASHIER'S CHECKS WERE USED ON THE KRD  
7 ACCOUNTS BECAUSE IT WAS DR. GANESH'S PRACTICE AND DR. GANESH'S  
8 MONEY. IF THAT'S TRUE, THE SAME APPROACH WOULD HAVE BEEN TAKEN  
9 WITH THE SARATOGA LASER ACCOUNT.

10 AND THERE WAS NO EFFORT TO HIDE THIS ACCOUNT AS -- I THINK  
11 WHAT MR. HOROWITZ WAS TRYING TO SUGGEST IS THAT DR. BELCHER  
12 WASN'T ASKED ABOUT THESE THINGS. HE WAS ASKED. HE'S THE ONE  
13 THAT EXPLAINED SARATOGA LASER. WE LOOKED AT CHECKS WITH  
14 DR. BELCHER.

15 I'VE SHOWN YOU MORE CHECKS IN THIS CLOSING -- I WON'T GO  
16 THROUGH THEM ONE AFTER THE OTHER AGAIN, BUT I GAVE YOU -- AND  
17 YOU CAN CHECK YOUR NOTES -- EIGHT OR NINE EXAMPLES EARLIER AND  
18 YOU SAW THEM WHEN WE WENT OVER THEM WITH DR. BELCHER. THEY'RE  
19 IN THE SAME TIME PERIOD AS THE DEPOSITS WERE BEING MADE IN THE  
20 MONEY LAUNDERING COUNT.

21 SAME TIME PERIOD, SAME BASIC STRUCTURE, A GANESH PRACTICE,  
22 JOINT ACCOUNT IS USED SORT OF TO CONTROL THE MONEY FROM THAT  
23 GANESH PRACTICE AND CARE.

24 BUT IN ONE ACCOUNT THAT HAS KRD, CASHIER'S CHECKS AND ALL  
25 THIS EFFORT TO SORT OF MOVE THE MONEY AROUND AND THEN SPEND IT,



1 THAT'S NOT HAPPENING WHEN THERE'S NO KRD ASSOCIATION. THAT  
2 INDICATES THAT THERE WAS AN INTENT TO CONCEAL THE MONEY  
3 ASSOCIATED WITH THE KRD BILLING AND CLAIMS AND PATIENTS.

4 AND IS IT A DIFFERENT WAY? MAYBE. YOU KNOW, WHAT  
5 YOU'RE -- THERE WAS A SUGGESTION HERE THAT, LIKE, IT JUST  
6 COULDN'T BE MONEY LAUNDERING BECAUSE IT'S SO UNUSUAL TO ATTEMPT  
7 MONEY LAUNDERING WITH CASHIER'S CHECKS.

8 WELL, YOU'RE NOT BEING ASKED TO DETERMINE WHETHER OR NOT  
9 THIS IS THE MODEL TYPE OF MONEY LAUNDERING OR THE PERFECT OR  
10 THE BEST. YOU ARE JUST BEING ASKED TO DETERMINE WHETHER OR NOT  
11 THE TWO DOCTORS TRIED TO CONCEAL THE MONEY THAT THEY HAD MADE  
12 FROM A FRAUDULENT SCHEME, THE SCHEME WE TALKED ABOUT,  
13 SUBMITTING FALSE CLAIMS. IT'S GETTING THE MONEY FROM THAT.

14 AND DID THEY CONCEAL IT? YES, THEY DID. IS IT UNUSUAL?  
15 WOULD IT BE THE WAY YOU DID IT?

16 THE REAL QUESTION IS -- THOSE AREN'T THE QUESTIONS. THE  
17 QUESTION IS, IS THAT WHAT THEY WERE TRYING TO DO? WERE THEY  
18 TRYING TO CONCEAL THE MONEY?

19 AND WHEN YOU COMPARE THE WAY THEY USED THAT MONEY AND ALL  
20 THE WAYS THAT THEY USED MONEY IN OTHER ACCOUNTS, IT'S VERY  
21 DIFFERENT AND THERE'S DELIBERATE STEPS TO DISASSOCIATE IT WITH  
22 KRD, AND THAT'S THE INTENT TO CONCEAL. AND BOTH DOCTORS ARE  
23 DOING IT. THEY'RE OPENING THAT ACCOUNT TOGETHER. THEY'RE  
24 OBTAINING -- THEY'RE BOTH OBTAINING CASHIER'S CHECKS. IT LOOKS  
25 LIKE DR. BELCHER IS PRIMARILY THE ONE DEPOSITING THEM, THOUGH.

1 THEY'RE BOTH INVOLVED AND THEY'RE BOTH DOING IT THE SAME WAY  
2 AND THAT'S AN AGREEMENT, THAT'S COOPERATION, THAT'S A  
3 CONSPIRACY.

4 I DID -- I DID GO THROUGH IT QUICKLY, AND IT MAY BE  
5 CONFUSING WHAT THE INDIVIDUAL MONEY LAUNDERING COUNTS ARE, BUT  
6 THESE ARE COUNTS NINETEEN, AND IF YOU LOOK -- WHEN YOU LOOK AT  
7 THESE, THE VERDICT FORM -- YOU CAN HAVE MORE TIME TO LOOK AT  
8 THIS IN DETAIL -- BUT IT'S A SERIES OF PURCHASES OF MONEY  
9 LAUNDERING -- EXCUSE ME -- CASHIER'S CHECKS, CASHIER'S CHECKS  
10 NAMES, OR NUMBERS, ON THEM. TWENTY -- COUNT TWENTY-ONE AS  
11 WELL. COUNT TWENTY-TWO, TWENTY-THREE, AND TWENTY-FOUR.

12 AND THESE PARTICULAR CHECKS, WHEN YOU COMPARE THOSE  
13 NUMBERS, THEY ARE ALL THE CHECKS IN EXHIBIT 128. 128 IS THE  
14 BASIC -- CAN WE PUT THAT UP REAL QUICK?

15 CAN WE SWITCH TO THE COMPUTER, PLEASE? THANK YOU, MADAM  
16 COURTROOM DEPUTY.

17 THIS IS THE CHART THAT SHOWS EACH ONE OF THOSE CHECKS  
18 THAT'S IN THE VERDICT FORM. IT'S THE POOLING OF THE SIX CHECKS  
19 TO PUT THE \$92,000 DOWN. THOSE ARE THE MONEY LAUNDERING  
20 COUNTS.

21 BUT AS WE TALKED ABOUT, AS I SHOWED YOU EARLIER, IT'S NOT  
22 THE ONLY TIME THAT MONEY WAS CONCEALED LIKE THAT. THERE WAS  
23 THE \$100,000 POOLING FOR CHICAGO TITLE COMPANY RIGHT AROUND THE  
24 SAME TIME.

25 BUT THOSE SIX CHECKS AND THE POOLING OF THEM FOR \$92,000,

1 THAT'S WHAT'S BEING CHARGED HERE. 1 -- THIS IS IT.

2 THESE ARE THE CHECKS IDENTIFIED IN THE COUNT. OKAY?

3 THAT'S IT FOR THOSE COUNTS.

4 THERE'S A LOT OF TALK ABOUT PATIENTS GOING BACK TO SEE  
5 DR. BELCHER AND THAT COULDN'T MEAN THAT THERE WAS DEFRAUDING  
6 HERE.

7 WELL, THERE'S NO QUESTION DR. BELCHER IS A GOOD  
8 ATTORNEY -- I MEAN, EXCUSE ME -- A GOOD DOCTOR AS A SURGEON,  
9 AND THERE'S NO ARGUING THAT AT LEAST MS. CABRAL PROVIDED GOOD  
10 PHYSICAL THERAPY.

11 BUT ON THE PHYSICAL THERAPY SIDE, IT IS NOT THE PATIENTS  
12 THAT ARE SUFFERING THE LOSS HERE BECAUSE, REMEMBER, DR. BELCHER  
13 DIDN'T COLLECT CO-PAYS, SO IT'S ALL UP SIDE FOR THE PATIENTS.  
14 THEY'RE NOT LOSING ANY MONEY.

15 IT'S THE INSURERS THAT ARE. AND AS THE INSURERS  
16 TESTIFIED, THEY DIDN'T KNOW ALL THE DETAILS OF DR. BELCHER'S  
17 PRACTICE AND WHAT WAS HAPPENING THERE.

18 SO THERE IS NOTHING TO READ INTO THE FACT THAT HE IS STILL  
19 SUBMITTING CLAIMS TO THEM OR THEY'RE STILL ACCEPTING THEM. YOU  
20 KNOW? IF ANYTHING, IT JUST SHOWS THAT THEY ARE GIVING HIM THE  
21 BENEFIT OF THE DOUBT UNTIL -- WELL, I'M NOT GOING TO SPECULATE  
22 WHAT THEY'RE DOING, BUT THERE'S NO REASON TO CONCLUDE THAT THEY  
23 HAVE EXONERATED HIM.

24 YOU WERE ALSO -- IT WAS SUGGESTED TO YOU -- AND THIS IS  
25 IMPORTANT -- THAT THE GOOGLE CALENDAR -- AND THIS WAS KIND OF

1 IN THE LYTEC AREA THAT WE TALKED ABOUT SPECULATION -- BUT  
2 THERE'S BEEN SO MANY EFFORTS TO SORT OF DISTANCE THE GOOGLE  
3 CALENDAR, TO SORT OF SUGGEST IT'S NOT ACCURATE.

4 EVERY TIME IT'S BEEN TESTED, IT HAS SHOWN TO BE ACCURATE.  
5 IT MATCHES THE SIGN-IN SHEETS. ASK YOURSELF WHEN YOU WERE  
6 SHOWN A SIGN-IN SHEET THAT DIDN'T MATCH THE GOOGLE CALENDAR.  
7 OVER AND OVER AND OVER THOSE TWO MATCHED.

8 WHAT DOESN'T MATCH IS THE BILLINGS. THAT'S WHAT DOESN'T  
9 MATCH.

10 YOU ALSO REMEMBER THAT THERE WAS A HUGE EFFORT IN THE  
11 CROSS-EXAMINATION OF MS. CABRAL TO SORT OF IMPUGN HER  
12 SCHEDULING ABILITIES AND ABILITY TO TRACK PATIENTS. AND SHE  
13 WAS A PRETTY HONEST WITNESS. I MEAN, SHE ACKNOWLEDGED IT  
14 WASN'T PERFECT, BUT WAS VERY PROUD OF THE WORK SHE'D DONE TO  
15 MAKE IT BETTER. AND SHE WAS -- MY MEMORY IS THAT SHE WAS  
16 UNEQUIVOCAL, BUT, YOU KNOW, I TRUST -- YOU ARE TASKED WITH  
17 TRUSTING YOUR MEMORY.

18 BUT THINK BACK ABOUT HER TESTIMONY AND THE PRIDE SHE HAD  
19 IN THAT, HER STATEMENTS ABOUT CONTINUOUS IMPROVEMENTS TO THAT.

20 AND THE RELEVANCE OF THE CONTINUAL IMPROVEMENTS IS THAT  
21 THE CALENDAR IS GETTING MORE AND MORE ACCURATE, SCHEDULING  
22 PROBLEMS ARE GETTING LESS AND LESS.

23 BUT YOU KNOW WHAT'S NOT CHANGING? THE SUBMISSION OF FALSE  
24 CLAIMS. THAT PATTERN HOLDS TRUE. THE SPLIT CLAIMS HOLD TRUE  
25 IN '12, '13, AND '14. SO IT'S NOT -- IT CANNOT BE ATTRIBUTED

1 TO A SCHEDULING ISSUE.

2 AND THE OTHER REASON YOU KNOW IT CANNOT BE CHALKED UP TO A  
3 SCHEDULING ISSUE IS BECAUSE MS. MICHAEL SAID, "YOU KNOW WHAT?  
4 I JUST WENT STRAIGHT TO MS. CABRAL TO SCHEDULE THINGS BECAUSE  
5 SHE WAS THE MOST RELIABLE."

6 SO YOU WOULD THINK THEN THAT HER SCHEDULE WOULD BE THE  
7 MOST ACCURATE.

8 BUT YET, AGAIN, WHEN MS. MICHAEL'S GOOGLE CALENDAR AND  
9 SIGN-IN SHEETS ARE COMPARED TO WHAT WAS BILLED, AGAIN, HUGE  
10 DISCREPANCIES. IT HAPPENS -- THIS WHOLE PATTERN HAPPENED FOR  
11 ABOUT A YEAR IN 2013 THROUGH 2014 WITH HER. EXCUSE ME, 2012  
12 AND 2013.

13 THAT INDICATES THAT IT WASN'T A SCHEDULING ISSUE, THAT  
14 THERE WERE CONSTANT FALSE CLAIMS BEING SUBMITTED THAT CANNOT BE  
15 ATTRIBUTED TO A SCHEDULING OR BLAME -- SOMEBODY ELSE CANNOT BE  
16 BLAMED.

17 THE INSURANCE COMPANIES WERE JUST BEING BILLED FOR THE  
18 WRONG DATES INTENTIONALLY. THE PATTERN IS CLEAR. IT HAPPENED  
19 FOR A LONG TIME.

20 DR. BELCHER WAS BY ALL ACCOUNTS A VERY COMPETENT PERSON,  
21 DESCRIBED HIMSELF AS A QUICK STUDY IN BILLING, INDICATED HE HAD  
22 COMMAND OF THIS.

23 HOW DOES THIS PATTERN KEEP HAPPENING? THE ANSWER IS IT  
24 WAS DONE SO INTENTIONALLY. THERE'S NO OTHER PERSON TO BLAME.  
25 THERE'S NO CHANCE OF COINCIDENCE. IT'S THE PRODUCT OF AN

1 INTENTIONAL SCHEME.

2 AND YOU KNOW THIS AS WELL BECAUSE OF THE SIMILARITIES  
3 BETWEEN WHAT'S GOING ON WITH DR. GANESH'S PATIENTS AND  
4 DR. BELCHER'S. SAME THING HAPPENING ON BOTH SIDES, AND THAT  
5 CANNOT BE DISCOUNTED EITHER. BOTH DOCTORS ARE WILLING AND  
6 TOLERANT, MAYBE TO VARYING DEGREES, BUT CERTAINLY AT LEAST  
7 SOME, TO SUBMIT CLAIMS THAT ARE FALSE.

8 AND THEY CANNOT BE JUST CALLED AS NOT A BIG DEAL, OR IT  
9 ALL WORKS OUT IN THE WASH, OR SOMETIMES WE GOT IT RIGHT,  
10 SOMETIMES WE GOT IT WRONG, THAT DOES NOT EXCUSE IT, NOT IN THIS  
11 WORLD, AND THE WORLD I'M TALKING ABOUT IS THE INSURANCE CLAIM  
12 ONE. THE RULES OF THAT WORLD -- AND THAT IS DEFINED BY THE TWO  
13 PEOPLE THAT PARTICIPATE, THE HEALTH CARE PROVIDER AND THE  
14 INSURANCE COMPANY, AND THEY'RE SET FORTH IN THE HCFA FORM.  
15 THAT'S WHAT THEY AGREED TO.

16 AND WHEN THE CLAIM IS SUBMITTED, THE PROVIDER IS AGREEING  
17 THAT EVERYTHING IS ACCURATE AND, IF NOT, THEY ARE EXPOSING  
18 THEMSELVES TO CRIMINAL CHARGES. THAT'S WHAT THEY AGREED TO.

19 WHETHER OR NOT YOU THINK YOU WOULD AGREE TO IT IS  
20 DIFFERENT. THEY AGREED TO THAT. THEY AGREED TO THAT WHEN THEY  
21 SUBMITTED FALSE CLAIMS, AND THEY KNOWINGLY SUBMITTED FALSE  
22 CLAIMS.

23 THE LAST THING I'LL TALK ABOUT IS DR. GANESH'S MENTAL  
24 HEALTH.

25 AND THERE IS A CONSENSUS THAT AT LEAST BEGINNING IN 2016

1 AND THROUGH 2017, DR. GANESH DID SUFFER FROM A MENTAL ILLNESS,  
2 AND THAT -- NO ONE IS SAYING THAT DOESN'T DESERVE YOUR  
3 SYMPATHY, AND NO ONE IS SAYING THAT THAT IS A REASON TO SORT OF  
4 PILE -- YOU KNOW, NO ONE IS TAKING AWAY FROM THE  
5 UNFORTUNATENESS OF THAT.

6 BUT WHAT IS BEING EMPHASIZED HERE IS THAT THERE ISN'T ANY  
7 CONCRETE EVIDENCE OF WHAT HER MENTAL CONDITION WAS FROM 2008 TO  
8 2015. DR. LEVINSON MAKES AN EFFORT TO SORT OF LOOK BACKWARDS.  
9 DR. GLEZER ARTICULATED THAT'S NOT APPROPRIATE.

10 AND THERE JUST ISN'T A BASIS HERE EXCEPT THE  
11 SELF-REPORTING BY DR. GANESH, AND THAT WAS EXPLAINED WHY THAT  
12 WAS PROBLEMATIC.

13 AND EVEN THE DIAGNOSES THAT ARE KNOWN NOW, WHILE  
14 RECOGNIZED, YOU HAVE TO ASK YOURSELF, DO THEY RISE TO THE LEVEL  
15 OF SEVERITY CONTEMPLATED IN THE INSANITY DEFINITION?

16 AND THE INSANITY -- I'LL JUST READ IT. THE INSANITY  
17 DEFINITION SAYS "A DEFENDANT IS INSANE ONLY IF AT THE TIME OF  
18 THE CRIMES CHARGED: THE DEFENDANT HAD A SEVERE MENTAL DISEASE  
19 OR DEFECT."

20 EXAMPLES WERE GIVEN OF THAT, AND YOU CAN BRING YOUR OWN  
21 COMMON SENSE TO BEAR ON WHAT IS SEVERE. IS IT SOMEONE WITH  
22 ADVANCED ALZHEIMER'S? IS IT SOMEONE WITH ADVANCED DEMENTIA?  
23 IS IT SOMEONE WITH STRONG VIOLENT DELUSIONAL TENDENCIES OR  
24 HALLUCINOGENIC TENDENCIES? WOULD THAT BE QUALIFIED AS SEVERE?  
25 THAT'S FOR YOU TO DECIDE.

1           BUT IF THAT'S WHAT -- IF THAT'S SEVERE, WE HAVE TO DIAL IT  
2 BACK AND LOOK AT WHAT IS BIPOLAR DISORDER AND ANXIETY ISSUES?

3           NOW, IT'S SOMETHING THAT SHOULD BE TREATED FOR SURE. BUT  
4 DOES IT RISE TO THAT LEVEL OF SEVERITY?

5           AND YOU KNOW -- YOU HAVE BEEN GIVEN INDICATIONS BY THE  
6 DOCTORS THAT IT DOESN'T. AND PERHAPS THE BEST INDICATION IS  
7 THAT DR. LEVINSON IS TREATING DR. GANESH WITH THESE SYMPTOMS  
8 AND HIS DIAGNOSIS WITH A MINIMAL OR CLOSE TO MINIMAL DOSAGE OF  
9 LAMICTAL. SO IF THIS IS AS SEVERE AS YOU ARE BEING ASKED TO  
10 BELIEVE, WHY IS THE DOSAGE SO LOW? WHY IS DR. LEVINSON  
11 REPORTING IMPROVEMENTS ON THAT DOSAGE? THE ANSWER IS IT  
12 DOESN'T RISE TO THE LEVEL OF SEVERITY CONTEMPLATED BY THE  
13 INSTRUCTION.

14           AND IF IT DID, I MEAN, IT LEADS TO ABSURD RESULTS. I  
15 MEAN, WHAT WOULD ALZHEIMER'S BE CATEGORIZED AS? VERY, VERY,  
16 VERY, VERY SEVERE MENTAL DEFECT? YOU KNOW, WOULD EVERYTHING  
17 EXCEPT -- WELL, I DON'T WANT TO GO ON THERE. LIKE --

18           ALSO IT WAS ARGUED TO YOU THAT THERE'S A STRONG INDICATOR  
19 OF DR. GANESH'S EXTREMELY LIMITED OR AFFECTED COGNITIVE  
20 ABILITIES DURING THE RELEVANT TIME PERIOD BECAUSE SHE COULDN'T  
21 ADJUST HER BEHAVIOR.

22           WELL, THAT IS 100 PERCENT NOT TRUE, AND IT WAS SHOWN TO  
23 YOU, AND THERE WAS MADE NO EFFORT TO REBUT THE CONCRETE  
24 EVIDENCE. YOU WERE SHOWN THE LETTER FROM AETNA IN 2013 AND YOU  
25 WERE SHOWN, IN FACT, DR. GANESH DID READJUST AND RECALIBRATE



1 AND START CHANGING THE CODE. DR. GANESH DEMONSTRATED AN  
2 ABILITY TO READJUST AND RECALIBRATE THERE. SHE CAN ADJUST.  
3 THE QUESTION IS, DID SHE WANT TO?

4 AND FINALLY, YOU KNOW, THERE'S A -- NOT THAT THIS IS THE  
5 BIGGEST POINT, BUT THERE WAS AN EFFORT TO BE MADE THAT, WELL,  
6 YOU KNOW, SHE WAS MESSY DURING THE TIME PERIOD AND ISN'T THAT A  
7 SIGN?

8 WELL, IF WE LOOK AT EXHIBIT 88-10, PLEASE. OH, 8-10.  
9 PARDON ME.

10 WELL, HERE'S ONE OFFICE. I'M NOT GOING TO SAY WHOSE IT  
11 IS. MAYBE YOU REMEMBER THE TESTIMONY ON THAT. THAT'S ONE OF  
12 THE DOCTOR'S OFFICES.

13 NOW CAN WE LOOK, PLEASE, AT EXHIBIT 8-21, PLEASE.

14 THERE'S THE OTHER DOCTOR'S OFFICE.

15 WHAT'S THE DIFFERENCE? NO ONE IS ARGUING THAT ONE OF THE  
16 DOCTORS IS LEGALLY INSANE, BUT IT'S BEEN ARGUED TO YOU THAT ONE  
17 OF THEM IS BECAUSE ONE INDICATION IS MESSINESS AND  
18 DISORGANIZATION.

19 YET, IF YOU CAN'T TELL THE DIFFERENCE BETWEEN THESE TWO  
20 OFFICES IN TERMS OF THEIR MESSINESS AND ORGANIZATION, WHAT IS  
21 THE IMPORT OF ARGUING THAT? IS THAT REALLY DETERMINATIVE HERE,  
22 THE MESSINESS AND ORGANIZATION?

23 CAN WE TAKE THAT DOWN, PLEASE?

24 FINALLY, AND THIS IS RELEVANT TO THE CONSPIRACY CHARGES,  
25 THE ATTORNEY FOR DR. BELCHER INDICATED, WELL, YOU KNOW, THEIR

1 LIVES ARE ENTWINED, AND THEN THERE WAS A SERIES OF WAYS THEY  
2 WERE ENTWINED.

3 THE QUESTION IS, WHAT WAYS WERE THEIR LIVES NOT ENTWINED?  
4 IN EVERY MEANINGFUL WAY THEY'RE ENTWINED, AND THE MOST  
5 MEANINGFUL FOR YOUR CONSIDERATION IS THAT THEY MADE AN EFFORT,  
6 A COORDINATED EFFORT TO SUBMIT FALSE CLAIMS REGARDING THEIR  
7 PATIENTS.

8 I DON'T THINK THERE'S ANY -- YOU'VE SEEN THE OVERWHELMING  
9 EVIDENCE OF FALSE CLAIMS ON DR. GANESH'S PATIENTS, AND YOU'VE  
10 HEARD FROM DR. BELCHER HIMSELF THAT HE SUBMITTED CLAIMS FOR  
11 YEARS ON THAT AND THAT HE KNEW WHAT THE RIGHT CLAIMS WERE AND  
12 THAT HE RAISED THE CONCERN ABOUT USING THE CODES TO DR. GANESH  
13 AND HE WAS PARTICIPATING IN THE LANDIS MEETING.

14 AND HE -- AND, YOU KNOW, HE HIMSELF USED 99245 AND HAD AN  
15 UNDERSTANDING OF IT.

16 THAT'S THE MOST IMPORTANT WAY THAT THEIR LIVES ARE  
17 ENTWINED.

18 AND YOU'VE SEEN IT IN THE OTHER IMPORTANT WAY IS THAT WHEN  
19 THE MONEY CAME IN ON DR. GANESH'S PATIENTS, IT WAS USED IN A  
20 PARTICULAR WAY, THE SAME WAY BY BOTH DOCTORS, AND DR. BELCHER  
21 HAD CONTROL OVER THOSE ACCOUNTS IN THE SAME WAY HE HAD CONTROL  
22 OVER SARATOGA LASER AND HE TREATED THEM BOTH DIFFERENTLY, AND  
23 THE IMPORTANT REASON WHY IS BECAUSE THAT WAS KRD MONEY, AND  
24 THAT IS HOW YOU KNOW THAT THERE WAS AN EFFORT HERE TO CONCEAL  
25 THE MONEY COMING IN, INTO THAT ACCOUNT, AND THAT'S MONEY

1 LAUNDERING.

2 SO I'LL STOP THERE. I WOULD JUST ASK YOU TO CONSIDER ALL  
3 THE EVIDENCE IN THIS CASE CAREFULLY, TO WEIGH IT, TO TRUST YOUR  
4 MEMORIES, THERE'S BEEN A LOT PRESENTED, TO DOUBLE-CHECK IT WHEN  
5 YOU NEED TO.

6 BUT I SUBMIT TO YOU, THERE'S ONLY ONE VERDICT HERE AND  
7 IT'S SHOWN BY OVERWHELMING EVIDENCE. BOTH DOCTORS CONSPIRED TO  
8 COMMIT HEALTH CARE FRAUD, BOTH DOCTORS SUBMITTED FALSE CLAIMS  
9 AND FRAUDULENT CLAIMS TO INSURERS, AND BOTH DOCTORS CONSPIRED  
10 TO HIDE THE MONEY COMING IN ON DR. GANESH'S PATIENTS AND THEY  
11 INDIVIDUALLY MADE EFFORTS TO LAUNDER THAT MONEY, AND THAT IS  
12 WHY THEY'RE GUILTY ON ALL COUNTS IN THIS CASE.

13 THANK YOU.

14 THE COURT: ALL RIGHT.

15 MY FIRST STEP IS ACTUALLY TO THANK OUR ALTERNATE JURORS.  
16 I'M NOT SURE IF WE WILL SEE YOU AGAIN. WE'LL ONLY SEE YOU IF  
17 SOMETHING HAPPENS TO ONE OF OUR 12, IN WHICH CASE THEN YOU  
18 WOULD REPLACE THE MISSING JUROR AMONGST THE 12.

19 AND FOR THE 12, IF ONE OF YOU GETS EXCUSED AND WE HAVE TO  
20 REPLACE YOU, YOU DO NEED TO BEGIN AGAIN YOUR DELIBERATIONS  
21 BECAUSE YOU WILL BE A NEW CONSTITUTED BODY OF A DIFFERENT GROUP  
22 OF 12 PEOPLE.

23 BUT I DID WANT TO THANK OUR THREE ALTERNATES. I'M GOING  
24 TO ASK THAT YOU PLEASE GIVE YOUR CONTACT INFORMATION TO  
25 MS. MASON.

1 HOW QUICKLY COULD YOU COME TO THE COURTHOUSE IF IT WOULD  
2 BECOME NECESSARY?

3 JUROR: I'M PROBABLY ABOUT 20 MINUTES AWAY.

4 JUROR: ABOUT AN HOUR AND A HALF, FROM SALINAS. SO  
5 DEPENDING ON TRAFFIC.

6 JUROR: I'M ALSO NOT VERY FAR. PROBABLY, DEPENDING  
7 IF I'M AT HOME OR AT WORK, MAYBE 15 MINUTES --

8 THE COURT: OKAY. ALL RIGHT.

9 JUROR: -- WITH NO TRAFFIC.

10 THE COURT: ALL RIGHT. THANK YOU.

11 IF YOU WOULD -- AH, OKAY, GREAT. SO MS. MASON ALREADY HAS  
12 YOUR CONTACT INFORMATION. IF SOMETHING SHOULD HAPPEN TO ANY OF  
13 OUR 12, THEN YOU WILL BE CALLED TO COME IN AND TO JOIN THE  
14 DELIBERATIONS.

15 REGARDLESS, WE WILL LET YOU KNOW.

16 YOU'RE UNDER THE SAME RESTRICTIONS. DO NOT RESEARCH OR  
17 DISCUSS THE CASE WITH ANYONE BECAUSE YOU MAY BE ASKED TO SERVE  
18 AS A JUROR.

19 BUT WHEN THIS IS ALL DONE, YOU WILL RECEIVE A CALL FROM  
20 MS. MASON LETTING YOU KNOW WHAT HAPPENED, OR THAT YOU'RE NOT  
21 NEEDED ANYMORE AND YOU'RE NOW EXCUSED AND YOU'RE NOW FREE TO  
22 SPEAK WITH ANYONE WHOM YOU WISH TO SPEAK WITH.

23 BUT ABSENT THAT, THANK YOU VERY MUCH FOR YOUR SERVICE. WE  
24 GREATLY APPRECIATE IT. SO I'M GOING TO EXCUSE YOU.

25 LET'S ALSO SWEAR IN OUR BAILIFF. IF WE COULD SWEAR IN OUR

1 BAILIFF, PLEASE.

2 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

3 (COURT SECURITY OFFICER SWORN.)

4 COURT SECURITY OFFICER: I WILL.

5 THE CLERK: THANK YOU.

6 THE COURT: SO WHAT IS GOING TO HAPPEN IS THAT THE  
7 JURY ROOM IS ACTUALLY GOING TO BE CLOSED AND OUR BAILIFF WILL  
8 BE ACTUALLY SITTING OUTSIDE. SO IF YOU NEED TO PASS A NOTE,  
9 THEN YOU JUST KNOCK ON THE DOOR AND THEN THE BAILIFF WILL COME.  
10 IF YOU HAVE A NOTE, HE'LL THEN GIVE IT TO MS. MASON, WHO WILL  
11 THEN NOTIFY ALL THE PARTIES, AND WE'LL TRY TO RESPOND TO YOUR  
12 NOTES AS QUICKLY AS POSSIBLE.

13 BUT YOU REALLY SHOULD HAVE NO COMMUNICATION WITH ANYONE  
14 AND SHOULD NOT HAVE ANY SUBSTANTIVE COMMUNICATIONS AT ALL WITH  
15 THE BAILIFF.

16 ANYTHING THAT YOU HAVE TO SPEAK WITH ANY ONE OF US ABOUT  
17 SHOULD BE -- YOU'RE GOING TO GET THIS RED WELL. IN THIS RED  
18 WELL IS THE VERDICT FORM AND ARE TEN BLANK JUROR NOTES. ANY OF  
19 YOU CAN SIGN THIS FORM IF YOU HAVE A QUESTION, IF YOU HAVE A  
20 CONCERN.

21 OBVIOUSLY WITH THE JURY INSTRUCTION, DO NOT LET US KNOW  
22 WHERE YOU ARE IN TERMS OF YOUR DELIBERATIONS.

23 BUT IF YOU HAVE A QUESTION, YOU WRITE IT HERE, YOU SIGN  
24 IT, YOU DATE IT, THE TIME; YOU KNOCK ON THE DOOR, YOU GIVE IT  
25 TO THE OFFICER; HE WILL THEN GIVE IT TO US, THEN WE'LL FIGURE

1           OUT HOW TO RESPOND, AND WE'LL WRITE YOU BACK AND GIVE THE NOTE  
2           BACK TO THE OFFICER WHO WILL THEN GIVE IT TO YOU.

3                   BUT THERE SHOULD BE NO SUBSTANTIVE COMMUNICATIONS WITH  
4           ANYONE, THE BAILIFF, MS. MASON, NONE OF US. EVERYTHING SHOULD  
5           BE DONE IN WRITING. THE PARTIES ARE ENTITLED TO KNOW WHAT IT  
6           IS THAT YOU'RE ASKING. OKAY? SO PLEASE USE THIS.

7                   AND THEN TOMORROW, IN ADDITION TO THESE DOCUMENTS, YOU  
8           WILL GET A COMPLETE SET OF ALL OF THE EXHIBITS. YOU'LL ALSO  
9           GET AN EXHIBIT LIST SO THAT YOU CAN LOOK AND SEE WHATEVER YOU  
10          NEED TO FIND.

11                   MOST OF THE EXHIBITS WILL BE IN HARD COPY, BUT YOU WILL  
12          GET SOME DISKS FOR, LIKE, THE SPREADSHEETS AND OTHER ELECTRONIC  
13          EXHIBITS.

14                   SO YOU WILL GET A CART WITH A COMPUTER --

15                   DO WE ALSO HAVE A SLIDE SCREEN? BECAUSE THAT'S AWFULLY  
16          SMALL. OR OTHER MONITORS?

17                   THE CLERK: I CAN ASK JACKSON IF WE CAN GET  
18          ADDITIONAL MONITORS.

19                   THE COURT: SO WE'LL MAKE SURE THAT YOU GET  
20          ADDITIONAL MONITORS, OR AT LEAST PERHAPS A PROJECTOR AND A  
21          SCREEN SO THAT YOU CAN ALL LOOK AT ANY ELECTRONIC DOCUMENTS  
22          SIMULTANEOUSLY TOGETHER.

23                   BUT THIS COMPUTER IS WIPE CLEAN. THERE SHOULD BE NOTHING  
24          ON IT AT ALL. YOU WILL BE ABLE TO SORT OF MANAGE THE  
25          SPREADSHEETS, BUT YOU CAN'T MAKE ANY CHANGES TO THEM. THEY ARE

1 ALL WRITE PROTECTED. OKAY?

2 SO YOU WILL GET THOSE TOMORROW.

3 NOW, AS FAR AS YOUR TIME TO DELIBERATE, IT'S ONLY 9:00 TO  
4 4:30. BUT YOU CAN TAKE YOUR LUNCH AND ANY BREAKS AT ANY TIME  
5 YOU WISH. THAT'S COMPLETELY UP TO YOU. BUT WE'LL SEE YOU AT  
6 9:00 A.M. AND YOU'LL END EVERY DAY AT 4:30.

7 I THINK THAT IS IT, SO WE'RE GOING TO GO AHEAD AND EXCUSE  
8 YOU FOR THE DAY. THANK YOU.

9 AND WE'LL SEE OUR 12 JURORS TOMORROW MORNING AT 9:00.

10 AND MS. MASON, YOU WANT THEM TO COME DIRECTLY TO THE JURY  
11 ROOM; RIGHT?

12 THE CLERK: YES, WE CAN HAVE THEM COME DIRECTLY IN  
13 THE MORNING.

14 THE COURT: OKAY. SO PLEASE COME DIRECTLY.

15 AGAIN, THANK YOU TO OUR ALTERNATES AND WE'LL BE IN TOUCH.

16 (JURY OUT AT 4:48 P.M.)

17 THE COURT: OKAY. THE RECORD SHOULD REFLECT THE  
18 JURORS HAVE LEFT THE COURTROOM.

19 LET ME JUST GO PARTY BY PARTY.

20 DID YOU REVIEW THE VERDICT FORM THAT IS ECF NUMBER 281 AND  
21 THE TEN BLANK JUROR NOTES, AS WELL AS THE RED WELL, MR. NEDROW?

22 MR. NEDROW: YES, YOUR HONOR.

23 THE COURT: AND THEY'RE SATISFACTORY TO BE SENT INTO  
24 THE JURY ROOM?

25 MR. NEDROW: YES, YOUR HONOR.

1 THE COURT: MR. HOROWITZ, DID YOU REVIEW THESE  
2 DOCUMENTS AS WELL?

3 MR. HOROWITZ: EVERY PAGE, YES.

4 THE COURT: OKAY. AND THEY'RE SATISFACTORY TO GO TO  
5 THE JURY ROOM?

6 MR. HOROWITZ: YES, YOUR HONOR.

7 THE COURT: OKAY.

8 AND, MR. HICKEY, I BELIEVE YOU REVIEWED THESE AS WELL.

9 MR. HICKEY: I DID, YOUR HONOR.

10 THE COURT: AND THEY'RE SATISFACTORY TO GO TO THE  
11 JURY ROOM?

12 MR. HICKEY: YES.

13 THE COURT: OKAY. SO THESE WE'LL GO AHEAD AND SEND  
14 IN TONIGHT.

15 AND AS FAR AS THE EXHIBITS AND THE EXHIBIT LIST, IF YOU  
16 WOULD PLEASE BRING THEM AND WE'LL HAVE COURT AT 9:00 O'CLOCK TO  
17 GO OVER THAT YOU'RE SATISFIED WITH THEM.

18 NOW, OUR I.T. PERSON HAS GIVEN US A NEW COMPUTER. THERE  
19 WAS THE TITLE OF A PATENT COPYRIGHT CASE ON THE LAST ONE. IT  
20 HAD NO DOCUMENTS IN IT. BUT WE'VE ASKED FOR ONE THAT IS  
21 COMPLETELY CLEAN AND DOESN'T MENTION EVEN ANY TITLE OF ANY  
22 OTHER CASE.

23 SO IF YOU WOULD PLEASE REVIEW THIS ONE, AND WE'LL GET ON  
24 THE RECORD -- I DON'T KNOW HOW LONG YOU'LL NEED. WE COULD ALSO  
25 JUST DO THIS TOMORROW AT 9:00 WITH THE EXHIBITS AND THE EXHIBIT



1           LISTS IF YOU'D LIKE TO TAKE YOUR TIME LOOKING THROUGH THIS ONE.

2                   MR. HOROWITZ: IT'LL TAKE ME ABOUT FIVE MINUTES.

3                   THE COURT: OKAY. ALL RIGHT.

4                   MR. HOROWITZ: THAT WOULD BE GOOD.

5                   THE COURT: THEN WHY DON'T WE GO AHEAD AND HAVE YOU  
6 REVIEW IT, AND THEN I'D LIKE TO GET ON THE RECORD THAT YOU'RE  
7 SATISFIED THAT THIS IS CLEAN AND IS APPROPRIATELY GOING INTO  
8 THE JURY ROOM. OKAY?

9                   MR. NEDROW: OKAY. THANK YOU, YOUR HONOR.

10                  THE COURT: THANK YOU.

11                  (PAUSE IN PROCEEDINGS.)

12                  THE COURT: WHILE WE'RE DOING THIS, CAN I GET --  
13 EXCUSE ME. SORRY.

14                  WHILE WE'RE DOING THIS, CAN I GET COUNSEL TO STIPULATE  
15 THAT THE BAILIFF MAY EXCUSE THE JURORS AT RECESS, LUNCH BREAK,  
16 AND AT THE END OF THE DAY WITHOUT COURT BEING IN SESSION?

17                  MR. HOROWITZ: YES, YOUR HONOR.

18                  MR. NEDROW: YES, YOUR HONOR, FROM THE GOVERNMENT.

19                  THE COURT: MR. HICKEY OR MS. CHUNG?

20                  MR. HICKEY: YES, YOUR HONOR.

21                  THE COURT: ALL RIGHT. THANK YOU.

22                  NOW, WHAT I WILL ASK MS. MASON TO DO IS AT THE END OF THE  
23 DAY, JUST FILE A NOTE THAT THE JURORS HAVE ADJOURNED FOR THE  
24 DAY SO THAT WAY YOU KNOW THAT YOU'RE NOT ON CALL ANYMORE AND  
25 ARE FREE TO LEAVE.

1 THE CLERK: YES, YOUR HONOR.

2 MR. NEDROW: THANK YOU, YOUR HONOR. THAT WOULD BE  
3 GREAT.

4 THE COURT: I'M ALSO GOING TO ASK THAT SHE FILE ANY  
5 JURY NOTE THAT WE GET, AND ALSO TO LEAVE A COPY ON YOUR TABLES,  
6 SO THAT IF YOU'RE OUT OF THE COURTHOUSE, YOU CAN IMMEDIATELY  
7 LOOK ONLINE THROUGH PACER TO SEE WHAT'S BEEN FILED, BUT ALSO  
8 WHEN YOU COME IN, THERE WILL BE A HARD COPY ON YOUR TABLE.

9 MR. HICKEY: AND, YOUR HONOR, HOW LONG -- LIKE,  
10 WHAT'S OUR DISTANCE RADIUS THAT YOU'D LIKE TO KEEP US WITHIN?  
11 LIKE WITHIN 5 MINUTES, WITHIN 15 MINUTES, WITHIN 30 MINUTES?  
12 HOW CLOSE DO YOU WANT US TO STAY?

13 THE COURT: WELL, I GUESS THE QUESTION IS, WHAT IS  
14 FEASIBLE FOR YOU?

15 MR. HICKEY: MY -- I MEAN, MY PERSONAL ISSUE IS THAT  
16 I HAVE A HEARING AT 9:30 TOMORROW MORNING IN SAN FRANCISCO AND  
17 I HAVE NO IDEA WHAT TO DO. I'M GOING TO SEE IF I CAN GET  
18 SOMEBODY ELSE TO COVER IT.

19 THE COURT: OH.

20 MR. HICKEY: JUST BECAUSE I PUT IT ON A WEDNESDAY  
21 BECAUSE WE WEREN'T ON ON WEDNESDAY.

22 THE COURT: RIGHT.

23 MR. HICKEY: SO I DIDN'T THINK ABOUT DELIBERATIONS.

24 THE COURT: WELL, I'M WONDERING -- I MEAN, I DEFER TO  
25 YOU ON WHETHER YOU THINK YOU NEED TO HANDLE IT OR HAVE SOMEONE

1           SPECIALLY APPEAR FOR YOU, BUT WHETHER MS. CHUNG CAN BE HERE  
2           AND, IF SOMETHING COMES UP, SHE CAN BE IN TOUCH WITH YOU AS TO  
3           HOW WE SHOULD RESPOND TO A NOTE. THAT'S ANOTHER POSSIBILITY,  
4           AND THEN YOU COME DOWN AS SOON AS YOUR HEARING FINISHES.  
5           THAT'S ONE OPTION.

6                     MR. HICKEY: THAT'S -- ONE, I WAS THINKING THAT  
7           THEY'RE NOT LIKELY TO HAVE A VERDICT WITHIN AN HOUR.

8                     THE COURT: I DOUBT IT. THERE'S TOO MANY DOCUMENTS.

9                     MR. HICKEY: THEY'RE NOT LIKELY TO HAVE A QUESTION  
10          WITHIN AN HOUR. I THINK IT'S PROBABLY FINE.

11                    BUT I DID WANT TO JUST MENTION THAT, AND I WILL CONSULT  
12          WITH MY CLIENT AND FIGURE IT OUT.

13                    THE COURT: OKAY.

14                    MR. HICKEY: BUT IF I HAVE THE COURT'S PERMISSION TO  
15          COME DOWN AFTER THAT --

16                    THE COURT: THAT'S FINE. THAT'S FINE. I MEAN, I  
17          DON'T WANT TO IMPOSE AN IMPOSSIBLE BURDEN. I GUESS MY  
18          PREFERENCE, I'D LIKE YOU ALL TO BE AT LEAST 20 MINUTES AWAY.

19                    MR. HICKEY: I INTEND TO OTHERWISE BE -- AND I NEED A  
20          HAIRCUT AND TO DO SOME CHRISTMAS SHOPPING.

21                    THE COURT: PERFECT. THAT'S PERFECT. I MEAN, 20  
22          MINUTES AWAY WOULD BE IDEAL. IF YOU TOLD ME YOU HAD TO DO 30  
23          MINUTES, I WOULD ACCEPT THAT.

24                    BUT ANYTHING MORE THAN 30 MINUTES, MY CONCERN IS IT TAKES  
25          SO MUCH TIME TO FIGURE OUT HOW TO RESPOND. I DON'T WANT THEM

1 WAITING EXCESSIVELY LONG FOR AN ANSWER BECAUSE THEN THAT'LL  
2 JUST DELAY THEIR DELIBERATIONS.

3 MR. HICKEY: SURE, OF COURSE.

4 THE COURT: IF EVERYONE CAN REMAIN ROUGHLY 20 MINUTES  
5 AWAY, THAT WOULD BE IDEAL.

6 MR. HICKEY: OKAY.

7 THE COURT: AND, YOU KNOW, I AM GOING TO HAVE MY OWN  
8 CRIMINAL CALENDAR TOMORROW. OBVIOUSLY I WILL TAKE BREAKS TO  
9 TRY TO HANDLE YOUR TRIAL FIRST, BUT THAT WILL BE A LITTLE BIT  
10 OF A COMPLICATION. FORTUNATELY, MY AFTERNOON CALENDAR, WE'VE  
11 TAKEN 14 MATTERS DOWN TO TWO, SO MY 2:00 O'CLOCK CALENDAR WILL  
12 BE SHORT, THANKFULLY, SO THAT WE CAN DEAL WITH ANY QUESTIONS  
13 THAT MIGHT COME UP.

14 WHAT ELSE? I DO HAVE A CALENDAR ON THURSDAY AFTERNOON AT  
15 1:30. I THINK WE HAVE ALSO CUT THAT DOWN, I THINK, TO TWO.

16 BUT, YOU KNOW, IF I NEED TO TAKE BREAKS ON THOSE CALENDARS  
17 TO HANDLE A NOTE, I'LL TRY TO DO THAT SO THAT WE DON'T BOG DOWN  
18 THE JURY WITH A QUESTION THAT THEY REALLY NEED AN ANSWER TO.

19 WHAT ELSE? ANY -- ANYTHING ELSE?

20 WELL, LET ME FIRST ASK, MR. HICKEY OR MS. CHUNG, CAN YOU  
21 ALSO TAKE A LOOK AT THE COMPUTER SO I CAN GET ON RECORD THAT  
22 THAT ONE IS SATISFACTORY?

23 THEN IF IT IS SATISFACTORY, I'LL HAVE MS. MASON GO AHEAD  
24 AND WHEEL THAT INTO THE JURY ROOM SO THAT IT'LL BE READY TO GO  
25 TOMORROW MORNING.

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: WELL, LET ME ASK, WHAT ABOUT THE ATTORNEY  
3 ROOM OUTSIDE OF THE COURTROOM? SO --

4 THE CLERK: THAT'S OPEN.

5 THE COURT: OKAY. CAN WE LOCK IT THOUGH? I'M  
6 WONDERING IF COUNSEL CAN PUT THEIR DOCUMENTS IN THERE.

7 BECAUSE I'M ASSUMING, IF THERE'S A QUESTION, YOU MAY NEED  
8 TO REFER TO IT.

9 MR. HICKEY: THAT'S WHAT I'M THINKING. I MIGHT NEED  
10 IT IF SOMETHING COMES UP.

11 THE COURT: I'M PRETTY SURE THOSE CAN BE LOCKED.

12 THE CLERK: THEY CAN BE LOCKED, YOUR HONOR.

13 THE COURT: IF YOU WANT, WHY DON'T YOU GO AHEAD,  
14 YOU'RE WELCOME TO LEAVE WHAT YOU WANT IN THAT ATTORNEY  
15 CONFERENCE ROOM OUTSIDE THE COURTROOM AND WE'LL LOCK IT.

16 MR. HICKEY: OKAY. THANK YOU. MS. MASON HAS BEEN  
17 DOING THAT FOR US DURING THE TRIAL.

18 THE COURT: YEAH. I WOULD NOT LEAVE ANYTHING IN HERE  
19 BECAUSE TOMORROW MORNING I'LL HAVE A WHOLE SLEW OF FOLKS AND I,  
20 YOU KNOW, WOULD HATE FOR SOMETHING TO GET MISPLACED OR  
21 ACCIDENTALLY TAKEN.

22 MR. DELAHUNTY: UNDERSTOOD.

23 THE COURT: COULD YOU ALSO FILE THE EXHIBIT LIST SO  
24 THAT WE COULD DO A CHECK WITH OUR OWN RECORDS?

25 MR. NEDROW: YES, YOUR HONOR.

1 THE COURT: WHEN CAN YOU FILE IT?

2 MR. NEDROW: WELL, I WANTED TO -- I WANTED TO PUT ON  
3 THE RECORD THAT THE GOVERNMENT DID CHECK -- ACTUALLY, I  
4 SHOULD -- EXCUSE ME ONE MOMENT, IF I MAY, YOUR HONOR.

5 THE COURT: OKAY.

6 (DISCUSSION OFF THE RECORD BETWEEN COUNSEL.)

7 MR. NEDROW: YOUR HONOR, WE CHECKED, THE GOVERNMENT,  
8 REGARDING EXHIBIT 73.

9 THE COURT: YES.

10 MR. NEDROW: AND WE'VE CONFIRMED THAT WE DID NOT  
11 ADMIT, ULTIMATELY ADMIT EXHIBIT 73. AND SO, THEREFORE, WE LEFT  
12 IT OFF THAT LIST FILED LAST NIGHT.

13 I BELIEVE -- FORGIVE ME, I DON'T HAVE THE EXACT DOCKET  
14 NUMBER OF THE EXHIBIT LIST FILED LAST NIGHT. IT MIGHT BE  
15 DOCKET 279. BUT THAT EXHIBIT LIST FILED LAST NIGHT PURPOSELY  
16 LEFT OFF EXHIBIT 73.

17 THE COURT WAS RIGHT, THERE WAS A STIPULATION THAT  
18 REFERENCED IT, BUT WE ULTIMATELY DIDN'T MOVE IT IN.

19 THE COURT: OKAY.

20 MR. NEDROW: SO FROM THE GOVERNMENT'S PERSPECTIVE, WE  
21 THINK LAST NIGHT'S EXHIBIT LIST IS ACCURATE AND FINAL.

22 WE DO, OF COURSE, EXPECT TO GO THROUGH PERSONALLY THE  
23 EXHIBITS WITH COUNSEL TOMORROW MORNING. I WAS GOING TO ASK IF  
24 IT'S POSSIBLE THAT MAYBE WE COULD MEET IN THE COURTROOM AT,  
25 LIKE, 8:30, OR WHATEVER TIME PEOPLE THINK IS NECESSARY OR

1 APPROPRIATE TO PERSONALLY LOOK AT THE EXHIBITS BEFORE THEY GET  
2 MOVED IN.

3 BUT FROM THE GOVERNMENT'S PERSPECTIVE, WE THINK THE  
4 EXHIBIT LIST WAS SET AND THAT WAS THE REASON FOR THE  
5 DISCREPANCY, AND I APOLOGIZE FOR THAT, BUT THE EXHIBIT LIST IS  
6 CORRECT AT THIS POINT. WE DID NOT MOVE IN EXHIBIT 73.

7 THE COURT: ALL RIGHT. THEN I'M GOING TO ASK  
8 MS. MASON THEN TO JUST PUT ECF 279, JUST GO AHEAD AND GIVE THAT  
9 ONE TO THE JURORS THEN.

10 MR. NEDROW: FROM THE GOVERNMENT'S PERSPECTIVE,  
11 THAT'S FINE.

12 THE COURT: THAT WAS THE EXHIBIT LIST FILED LAST  
13 NIGHT.

14 MR. NEDROW: EXACTLY. WE THINK IT'S FINE.

15 AND THE ONLY LAST PIECE IS TO MAKE SURE THAT WE HAVE,  
16 AGAIN, THE ACTUAL EXHIBITS PULLED TOGETHER CORRESPONDING TO  
17 THAT TO GO IN. SO I WAS GOING TO SUGGEST, WHATEVER COUNSEL  
18 WANTS, IF THE COURTROOM WERE AVAILABLE AT WHATEVER TIME, 8:30.

19 MS. CHUNG: 8:30 IS FINE.

20 MR. NEDROW: OKAY. THAT WAY WE CAN TAKE A LOOK.

21 THE COURT: YOU MEAN GIVE THIS TO THE JURORS? CAN  
22 YOU GIVE THEM ONE THAT'S NOT WRINKLED UP?

23 THE CLERK: YES.

24 THE COURT: YOU KNOW, THEY MAY WANT MORE THAN ONE.

25 THE CLERK: OKAY. I CAN PRINT MULTIPLE.

1 THE COURT: WHY DON'T WE PRINT TWO MORE? WE'LL GIVE  
2 THEM THREE COPIES. THAT'S FINE. IF WE'RE GOING TO GIVE THEM  
3 THREE, AT LEAST TWO OF THEM SHOULD NOT BE WRINKLED.

4 ALL RIGHT. SO THAT EXHIBIT LIST WILL GO TO THE JURORS,  
5 AND THAT IS ECF NUMBER 279 FILED ON DECEMBER 11TH, 2017.

6 WE'LL SEND THREE COPIES OUT IN CASE MULTIPLE JURORS WANT  
7 TO LOOK THROUGH THAT LIST.

8 NOW, LET'S GO THROUGH THE COMPUTER. MR. HOROWITZ, DID  
9 YOU -- YOU HAD THE EAGLE EYE AND CAUGHT THAT ARISTA VERSUS  
10 CISCO FOLDER. IS THIS PARTICULAR COMPUTER AND EXHIBIT -- I'M  
11 SORRY, WHAT IS IT? IT'S A HARD DRIVE AND A MONITOR AND A  
12 MOUSE. IS IT SATISFACTORY, THE NEW ONE THAT WAS BROUGHT IN,  
13 NOT THE ONE THAT HAD THE ARISTA?

14 MR. HOROWITZ: WE CHECKED REALLY CAREFULLY. EVERY  
15 PROGRAM HAS BEEN OPENED AND THE HISTORY HAS BEEN CHECKED AND A  
16 SEARCH HAS BEEN DONE ON FILE EXTENSIONS FOR EVERY TYPE OF  
17 PROGRAM, EXCEL AND SO ON. NOTHING IS COMING UP.

18 THE COURT: AND IT'S CLEAN? YOU'RE SATISFIED THAT  
19 THIS CAN GO TO THE JURY ROOM?

20 MR. HOROWITZ: THIS ONE IS GOOD.

21 THE COURT: OKAY. MR. DELAHUNTY OR MR. NEDROW, WHO'S  
22 THE ONE THAT CHECKED THIS OUT?

23 MR. DELAHUNTY: THE GOVERNMENT IS SATISFIED.

24 MR. HOROWITZ -- I'LL PUT ON THE RECORD THAT MY OBSERVATION  
25 WAS A THOROUGH REVIEW BY MR. HOROWITZ.



1 THE COURT: ALL RIGHT.

2 WHAT ABOUT MS. CHUNG OR MR. HICKEY, DID YOU REVIEW THAT AS  
3 WELL?

4 MR. HICKEY: YOUR HONOR, MR. HOROWITZ HAS BETTER  
5 REVIEW CAPABILITIES THAN I DO. I'VE LOOKED AT IT. I'VE SEEN  
6 NOTHING THAT APPEARS INAPPROPRIATE.

7 THE COURT: ALL RIGHT. SO IS IT SATISFACTORY TO YOU  
8 THAT THAT GO INTO THE JURY ROOM?

9 MR. HICKEY: YES, YOUR HONOR.

10 THE COURT: OKAY. ALL RIGHT. SO THAT ONE -- SO THEN  
11 I'M GOING TO ASK MS. MASON TO GO AHEAD AND TAKE THE COMPUTER  
12 BACK TODAY, THREE COPIES OF THE EXHIBIT LIST, THEY ALREADY HAVE  
13 THE VERDICT FORM AND THE BLANK NOTES.

14 SO THEN THE ONLY THING WE'LL NEED TO GIVE THEM TOMORROW  
15 ARE THE ACTUAL EXHIBITS. PLEASE COME TO COURT AT 9:00 AND  
16 WE'LL PUT ON THE RECORD THAT YOU'VE ALL AGREED -- LIKE I KNOW  
17 THAT THERE WAS ONE OF MS. KINSEL'S DOCUMENTS, LET'S MAKE SURE  
18 THE UPDATED VERSION GOES IN.

19 IF THERE'S ANY OTHER DOCUMENT WHERE ONLY CERTAIN PORTIONS  
20 WERE ADMITTED, JUST MAKE SURE THAT WHAT'S GOING IN IS EXACTLY  
21 WHAT WAS ADMITTED.

22 SO WE'LL DO THAT ON THE RECORD TOMORROW AT 9:00.

23 NOW, REMIND ME, WHAT ARE YOU ALL GOING TO DO AS TO  
24 REDACTIONS OF EXHIBITS?

25 MR. NEDROW: YOUR HONOR, WE, I THINK, HAD A COUPLE OF

1 STRATEGIES. WE'RE GOING TO FILE A MOTION -- AND TO BE CLEAR,  
2 THE JURY WILL HAVE UNREDACTED COPIES OF EVERYTHING.

3 THE COURT: RIGHT.

4 MR. NEDROW: BUT FOR THE PUBLIC RECORD, THE  
5 GOVERNMENT WILL FILE A MOTION TO SEAL FOR THE PUBLIC DOCKET  
6 CERTAIN CATEGORIES OF EXHIBITS THAT CONTAIN P.I.I., SUCH AS  
7 PATIENT FILES, BANK RECORDS. I THINK THOSE ARE THE TWO BROAD  
8 CATEGORIES.

9 AND THE GOVERNMENT -- I THINK -- WE'RE HAPPY TO PREPARE  
10 IT. I THINK WE CAN HAVE A JOINT FILING THAT THE PARTIES AGREE  
11 TO SEAL THOSE FOR WITNESS PRIVACY OR PATIENT PRIVACY PURPOSES.

12 AND MY RECOLLECTION WAS WE AGREED TO DO THAT AS TO BROAD  
13 CATEGORIES, AND THEN TO THE EXTENT THAT THERE ARE ANY DOCUMENTS  
14 THAT HAVE SMALL PIECES THAT NEED TO BE REDACTED OUTSIDE OF  
15 THAT, WE'LL MAKE SURE TO REDACT OUTSIDE OF THAT.

16 AND WHEN WE GO THROUGH THAT PROCESS OVER THE NEXT FEW  
17 DAYS, BUT -- IF IT'S POSSIBLE TO HAVE A FEW DAYS?  
18 MS. BURNEY-WILLIAMS HAS LEFT AND I WANTED TO CONSULT WITH HER  
19 ON AN EXACT TIMEFRAME ON THAT, BUT IF WE CAN DO THAT OVER A  
20 LITTLE BIT OF TIME, I APPRECIATE THAT.

21 THE COURT: THAT'S FINE. I THOUGHT WE NORMALLY  
22 REDACT ADDRESSES AS WELL.

23 MR. NEDROW: YES, OF COURSE, ADDRESSES TOO, THAT'S  
24 RIGHT, AND SOCIAL SECURITY. THAT ALL FALLS UNDER P.I.I.,  
25 SOCIAL SECURITY NUMBERS, YES.

1           SO, AGAIN, WE APPRECIATE THE COURT'S WILLINGNESS TO  
2           CONSIDER SOME BROAD CATEGORIES, THE BANK RECORDS AND THE  
3           PATIENT FILES AND THE MEDICAL RECORDS, AND WE'LL SEAL THOSE  
4           BROAD CATEGORIES.

5           AND THEN TO THE EXTENT THAT THERE ARE THINGS THAT FALL  
6           OUTSIDE OF THAT, WE'LL REDACT THOSE AS WELL.

7           THE COURT: ALL RIGHT. SO WHY DON'T YOU -- SINCE I,  
8           FRANKLY, DON'T RECALL WHAT DEADLINE WE HAD PREVIOUSLY SET, IF  
9           YOU COULD JUST LET ME KNOW TOMORROW --

10          MR. NEDROW: YES, YOUR HONOR.

11          THE COURT: -- SO WE'LL KNOW WHEN TO LOOK FOR IT.

12          MR. NEDROW: YES. THANK YOU, YOUR HONOR.

13          THE COURT: AND I ASSUME THAT YOU'LL SIMULTANEOUSLY  
14          BE PROVIDING A COPY AS WELL.

15          MR. NEDROW: YES, YOUR HONOR. YOU MEAN OF -- YOU  
16          MEAN IF THERE'S LINE REDACTIONS? BECAUSE, AGAIN, SOME OF THEM  
17          WE MAY JUST REQUEST TO SEAL THE WHOLE DOCUMENT.

18          THE COURT: YEAH. FOR PATIENT FILES, I DON'T SEE THE  
19          NEED TO DO ANY REDACTION. I'M FINE WITH SEALING THE WHOLE  
20          THING.

21          MR. NEDROW: THANK YOU, YOUR HONOR.

22          AND WE THOUGHT THE BANK RECORDS, WE THOUGHT THAT MIGHT BE  
23          APPROPRIATE, TOO, IF I RECALL CORRECTLY. WE'LL PUT A WRITTEN  
24          PROPOSAL FOR THAT TONIGHT AS WELL. IF THERE ARE LINE  
25          REDACTIONS, WE'LL SUBMIT LINE REDACTED VERSIONS AS WELL.

1 THE COURT: ALL RIGHT. SO THEN TOMORROW MORNING,  
2 JUST LET ME KNOW WHAT THE TIMELINE IS FOR THAT.

3 MR. NEDROW: THANK YOU.

4 THE COURT: OKAY. ANYTHING ELSE THAT WE NEED TO DO  
5 TODAY?

6 JUST MAKE SURE MS. MASON HAS YOUR BEST CONTACT INFORMATION  
7 AND LET HER KNOW HOW YOU PREFER TO BE CONTACTED, WHETHER TEXT  
8 OR PHONE CALL OR E-MAIL OR SOME COMBINATION.

9 ANYTHING ELSE? WHAT ELSE DO WE NEED TO DO TODAY?  
10 ANYTHING ELSE?

11 MR. HOROWITZ: NO.

12 THE COURT: NO? OKAY. THANK YOU ALL.

13 MR. HOROWITZ: THANK YOU, YOUR HONOR.

14 MR. NEDROW: THANK YOU, YOUR HONOR.

15 THE COURT: WE'LL SEE YOU TOMORROW MORNING.

16 (THE EVENING RECESS WAS TAKEN AT 5:05 P.M.)

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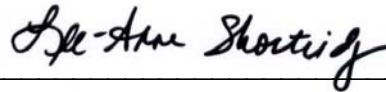
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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.



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LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

DATED: FEBRUARY 12, 2018